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DEDICATED TO

BOTH HOUSES OF PARLIAMENT.


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A LETTER
TO THE
MAGISTRATES OF ENGLAND

ON THE
INCREASE OF CRIME ;

AND AN EFFICIENT REMEDY SUGGESTED FOR THEIR
CONSIDERATION.

BY SIR EARDLEY EARDLEY WILMOT, BART.
F.R.S. F.L.S. AND F.S.A.

One of His Majesty's Justices of the Peace for the County of Warwick.

Nemo repente fuit turpissimus.

SECOND EDITION, WITH CORRECTIONS.

LONDON :—1827.

GENTLEMEN,

It is now seven years since I first addressed the public on the Increase of Crime, and particularly among juvenile offenders. I pointed out what I humbly conceived to be the chief cause of this spreading evil ; and I suggested a remedy which I believed would have had a great and immediate effect. I predicted, that crime would increase notwithstanding the improvements which the legislature, either in theory or practice, should enact ; and I asserted, that the spot where a wise man would attempt to diminish the force of a torrent, was not at its confluence with the sea, but where its spring first bubbled in quiet and concealment.

The Middlesex jury having lately noticed the great increase of juvenile delinquency, and having expressed an opinion, "that the law of Petty Larceny should be revised, and that the magistrates should be enabled to proceed in a summary way against such offenders," has induced me once again to trespass on the public attention ; and though I pretend not to that weight and influence which should make my opinion the guide of legislative enactments, yet having tried, during the last seven years only, above two thousand criminals for petty offences, in a county where the commitments equal those of any other county in England, I trust I do not presume too much, when I say that my experience is intitled to some attention.

It has long been my conviction, that notwithstanding the good which prison-discipline, penitentiary asylums, and other philan-

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thropic institutions have produced, yet as the most efficient and primary cause of the evil remained untouched, crime would increase in defiance of the enactments of the legislature, or the exertions of the philanthropist. It is undeniable, that an increase of population, the demoralising tendency of the poor-laws, the want of employment, the low price of labor, and though last not least, the inefficiency of the game-laws, have each contributed to swell the catalogue of offenders. There are other causes also which operate more or less in promoting the increase of crime, but which the natural wickedness of man will always create, and which the inefficacy of all human enactments cannot wholly prevent. But all these, powerful as they are, are only auxiliary causes, which have existed, and will continue to do so, so long as human nature is unchanged, and human enactments are imperfect. They may be efficient causes of the *continuance* of crime; but cannot sufficiently account for that rapid increase of depravity, which within these few years has more than tripled the annual commitments throughout the kingdom.

Before I enter into what I conceive to be the primary cause of this dreadful evil, or suggest the remedy most likely to counteract it, I will say a few words on those collateral and auxiliary causes, to which so much more weight is given than they really merit; and which, however powerful in their respective degrees, yet can by no means account for the enormous increase of crime attributed to them.

There can be no doubt but that an *increased population* must necessarily add to the number of those who offend against the laws; and if from natural or artificial means the population should suffer temporary or permanent distress, temptation to crime will become strong and irresistible. The very prosperity of a nation, by introducing luxury and dissipation, must also introduce a laxity of morals, and must strengthen, by the facility of gratification, every dormant inclination to vice. The arts, sciences, and commerce, extend to such distant regions, and require such complicated safeguards to protect and encourage them, that offences are created by the very progress of improvement; and thus the victims, which the offended laws of our country demand for the security of the public, are annually sacrificed without pity, and almost without notice on the altars of public safety.

The *poor-laws* are another auxiliary to the increase of crime, aggravated chiefly by their abuse, and, by applying them to a purpose for which they never were intended. Instead of raising the wages of labor to the increased price of subsistence, the deficiency is made up out of the parish-rates; and thus the degradation of the moral feeling of the laborer inevitably attends the vicious

system of supplying him from a fund intended only for the feeble and necessitous. The wretchedness of his condition also, the want of regular habits, and of due subordination to his employer, frequently originate his first dereliction of virtue. Early marriages, contracted either to avoid a prison, or with a view of receiving more from the parish, increase the evil, and multiply a population, for whom there is no certain employment; and thus men are often tempted to offend against the laws to improve their miserable existence.

Poaching is one of the greatest of the auxiliary causes of crime, and is often the first step on the ladder which leads to the gallows. But accustomed as we are to view the poacher in a light in which his occupation, as destructive to our self-interest, is greatly magnified, I will ask to what are we to attribute the very existence of the poacher? Undoubtedly to the game-laws themselves, passed at a period when property, rank in life, and the general feelings of subordination, which property and rank never failed to excite in former times, had greater influence than at present. It is true, that the game-preserver has a right to what is fed and bred on his own property—has a right to use all means allowed by law to protect such property; but does he not, by filling his woods with a countless stock of half-tamed poultry, hold out an irresistible temptation to the poor and profligate? and, by supporting the laws of his exclusive monopoly, is he not affording an excuse to the merchant or fundholder to purchase those delicacies of the season, which none can sell him but by a breach of the laws? Are not also the game-buyers responsible for the infringement of the laws by others, and for the remote and certain consequences which attend the career of the poacher? It is an indisputable fact, that nine out of ten of those criminals, who are annually tried at our bars for theft and robbery, begin with poaching; and though I by no means excuse a breach of the law, let the temptation be what it may, or the inefficiency of the law, however notorious, yet while we consider poaching, as an auxiliary to crime, let the game-preserver, the game-buyer, and the law itself, have their just share of the opprobrium.

Another great auxiliary of crime is, the *uncertainty* of punishment, and the distant period to which a culprit has to await his sentence. The severity of our laws, which enacts the same punishment for the greatest crimes, as for some of the least in the scale of depravity, have greatly tended to swell the catalogue of offenders, and for this reason:—the offender knowing if the full penalty of the law is enforced, it will not be done above once in a hundred instances, the fear of the mitigated punishment is swallowed up in the hope of escaping the greater; and the change of sentence from death to imprisonment is so very great, that he knows

that he shall suffer little risk in hazarding the highest penalty of the law. This reflection, added to the uncertainty of proof, the chance of escape, the hope of pardon, and a general carelessness of the future, has such a counter-operation to the apprehension he entertains of undergoing the extreme sentence of the law, that the law itself holds out little or no terrors; and he, without scruple, gambles with his life on any adventure which his wickedness or his necessities may offer to him. By the late revision of the criminal law, much of this evil has been remedied; but much remains to be done by wise and gradual alterations.

Another great auxiliary to crime, inasmuch as it has filled our jails with petty offenders, who leave their prison-accomplished thieves, is the indiscriminate *payment of expenses* to those who bring offenders to justice. Offences of the most trifling nature, and committed by mere children, are now brought before the public with all the parade of the greatest turpitude. The trouble, the expence, and perhaps feelings of a compassionate nature, often saved the young and thoughtless from being sent among the more hardened offenders. A first offence frequently saved the young culprit from being treated with the same rigor, which the repeated transgressions of the experienced villain deserved; and the little wretch, who by timely and judicious correction, might have become a valuable member of society, is now sent to associate with the veteran proficient in their profession. Such is the certainty of having all the expenses attending a prosecution defrayed by the public purse,¹ that an assize or a sessions partake more of a jaunt of pleasure, than the performance of a serious and painful duty; and the stealing of any article, however trifling, or however youthful the offender, is attended by all the pomp of judicial exposure. This circumstance alone, independent of the evil consequent on the committal of the offender to prison, adds to the increase of crime; for while remuneration is so certain and so ample, will the tradesman be so careful of his property, and will he not expose it to sale without that caution or watchfulness which he would otherwise have taken? And is not a temptation and opportunity offered to the hesitating depredator, who, hardly beyond the age of childhood, commits an offence for which at home or at school he would have received at most corporal chastisement?

As a proof that the certainty of funds has tended to increase

¹ It is just and reasonable, that he who prosecutes a criminal for the public good should be reimbursed by the public purse; but care should be taken, that as the law has removed, in criminal proceedings, every *pecuniary obstacle*, so ought the dispensers of the law to remove every *pecuniary inducement*; and that while we are just to individuals who bring delinquents to justice, we are also just to the public, who pay the expenses, and who have delegated to us the management of their contributions.

prosecutions, I will instance the effects produced by a late enactment, empowering the payment of expenses on assaults on constables in execution of their duty. Previous to this enactment, not above once or twice a-year were such indictments preferred, and then only in aggravated cases. Whereas now not a sessions pass but there are many such cases, all of which would have been treated, as heretofore, by the contempt they merited, but for the remuneration expected.

Another auxiliary to crime is, what may appear at first sight a paradox, but which has undoubtedly a great effect in swelling the catalogue of offenders—I mean, the efficiency of the police for the *detection* of crime: however efficient they may be for the detection of offences, yet, for the prevention of them, they are lamentably deficient. The object of all laws is the prevention of crime; and this is the justification of all earthly punishment, in order to deter others from committing a breach of the laws. The prevention of intended crime, therefore, is of more importance than its detection after committal: but when do we hear of a police-officer standing between the intention and the act; between the thief, who is meditating a robbery, and the actual commission of it? On the other hand, if an urchin is looking about and watching for an opportunity, instead of timely information, whereby the authority of the master or of the parent might interfere, the first step of the police-officer is to see that the crime is sufficiently perpetrated to convict the offender. Half of the petty offences committed by the younger part of the community might be prevented by common caution on the part of the tradesman, and common diligence on the part of the constable: instead of which, the offender is either taken before a magistrate as soon as the offence is legally completed, and bagged for immediate supply; or allowed to run at large in the constable's preserve, till ready for consumption. Offences of a trifling nature are thus repeated, or brought at once before the public in all the parade of atrocious villany; and what formerly would have been treated with a horsewhipping on the spot, and therefore more efficacious from its summary proceeding, now undergoes the grave and often useless ceremony of a trial.

These, and many others, are undoubtedly efficient causes for an increase of crime: but I consider them *secondary* causes only; powerful indeed, and quite sufficient to swell the catalogue of offences beyond the limits of former times; but wholly inefficient to account for the fact, that while our population has increased only one-fifth in the last ten years, the committals for felony have doubled. To what are we to attribute this disproportionate increase of offences? To what paramount and irresistible cause are we to place the demoralisation of the people? To what, but

to the destroying, at an age when the dawn of reason has scarcely opened on their mental darkness, those feelings of shame and compunction which are the natural accompaniments of youth, and to which human nature too frequently yields a temporary obedience, even greater than to the dictates of conscience at a more advanced age. It is to the *early imprisonment* of mere children, and the familiarising them with the walls of a prison, which lay the foundation of that hardihood in crime which we in vain attempt afterwards to remedy or prevent. Excellent alterations and enactments have been adopted, which have in some degree lessened the evils resulting from an increase of crime; and the wisdom of the legislature, the attention of the magistracy,¹ and the benevolence of individuals, may do much to reform our fellow-creatures. But these enactments and exertions are, however, *secondary* remedies. The chief cause of the increase of crime, *early imprisonment*, has remained unheeded and unnoticed; and therefore the remedies that have been from time to time applied, have been inefficient. The reform of the juvenile delinquent has been attempted *after* the contamination of a jail; *after* the stigma of a verdict, and *after* all the dormant propensities to vice have been roused into action. I do not assert that the seeds of wickedness are sown in the hearts of the youthful culprit by his being sent to a receptacle of vice and depravity; but are there not many cases where, was it not for the indiscriminate severity which considers only the violation of a law, those seeds might either have been eradicated, or might have withered for want of nourishment? Hence, must it not strike every thinking mind, that by having no intermediate tribunal, before which the young culprit might be summarily convicted, human aid largely contributes to the perfecting of human depravity, and that the intercourse with hardened villains, and the being made familiar with every species of depravity, must destroy every principle of amendment. Nor is this all: in his dismissal from the walls of a prison, (to him often, in his forlorn state, his

¹ The Warwick County Asylum, established in 1818, and supported solely by voluntary contributions, has been of infinite benefit. Out of eighty-one boys, who have been discharged from it, thirty-nine have been ascertained to have been permanently reformed, twenty-one have been since tried at Warwick, and sixteen remain. But as *one thousand eight hundred and thirteen boys* have been tried at Warwick in the last seven years only, and as this institution is barely supported by the contributions of the benevolent; it follows, how inefficient an institution, on so small a scale, is for the purposes intended, and how precarious is its existence when dependent only on private benevolence. Boys have occasionally been received into the Asylum without being tried and convicted; and I have it, on the best authority, to say, that the facility of reform is incalculably greater with such boys than with convicted felons. I believe this county is the only county which has founded and supported an institution of this most benevolent nature.

most comfortable home,) the juvenile delinquent has lost that feeling of shame which the name of a prison at first invariably excites. Without character, without friends, and without the means of gaining an honest livelihood, he plunges at once into those vicious courses of profligacy and crime, which increase in magnitude as they increase in number, till an ignominious death closes his career, at an age when his mind has not yet reached the first dawning of sober reflection. Can we wonder then at our jails being crowded with criminals, many of whom have repeatedly visited the same dungeons, and almost consider them as the friendly protectors of their wretchedness, than as the frowning instruments of their punishment; and, am I not justified in attributing to *early imprisonment* the most powerful cause of the increase of crime.

It is not in the preposterous hope of preventing offences, of exterminating crime, or of eradicating vice and criminality from the human heart, that I wish to draw the attention of the public to this interesting subject; but from the well-grounded conviction, that there are no propensities however rooted, no opportunities however favorable, and no temptations however great and frequent, that are not multiplied tenfold by the want of an intermediate tribunal, where boys may be saved from the most fatal of all contaminations—the contamination of a jail. And if the end of all law is the prevention of crime, and the reform of the offender; and if this object is not only not accomplished, but crimes are increased, and offenders hardened by a system which assists, rather than prevents this increase, it is an unanswerable argument for a wise and timely alteration of injudicious enactments.

Early imprisonment, therefore, is the great and primary cause from which crime originates. From this source most of the evils flow which affect the youthful offender, and at the earliest age lead him into those paths of vice from which there is afterwards no escape—from which the light of hope is almost excluded; and where the tears of repentance are generally disregarded. Whatever may have been his first propensities at his first commitment, he invariably becomes worse and worse, and leaves his prison fully instructed in all the mysteries of crime. You will find the still lingering blush of shame quickly give way to the habitual stare of profligate associates; and you will hardly recognise in the familiar boldness of the felon, the distressed and desponding novice in his profession. To him, to return is as fatal as to proceed; he is impelled onwards by every impulse which bad example, bad company, and the scoffs of the world have raised in him; till at last he is driven down the gulf which has so long yawned to entomb its living victim of destruction.

In searching for a remedy by which this increasing evil may be

effectually checked, the only true foundation of success must rest on the just and accurate view of the cause which produces it. It is not to save the youthful delinquent from punishment, but in order to prevent that very punishment from being the instrument of increasing the evil, that I would apply the remedy; and if, long before he has become a public spectacle at the bar of a criminal court, I could save him from so great and fatal a degradation; if before his heart is hardened in villany, or rendered desperate by a verdict of *guilty*, I could inflict a punishment which should produce better effects; then, I confidently assert, that a step would be gained in the prevention of crime, which would soon be felt in every part of this extensive empire.

The remedy therefore that I would propose, is not a restoration of those tribunals which formerly existed in every hundred, and every village, in the time of our ancestors; but I would recommend the adoption of the *principle* in which they originated, viz. the *immediate* and *summary* cognisance of offences committed by the youthful depredator; to be heard before an intermediate tribunal, where petty offences may be instantly proceeded against and punished, without sending the offender to undergo the stigma and contamination of a public prison, the publicity of trial, and all those evils which infallibly result from early imprisonment. I would change the law of larceny as affecting offenders of a certain age, and convert the offence into one of a minor character, cognisable by two magistrates, in the same way as offences now are under the Malicious Trespass Act, and many others; and by thus arming the magistracy with the power of immediate conviction, on sufficient evidence, or on confession of the parties, I would empower them to punish the young culprit by whipping, confining him in an asylum set apart for this purpose, or by discharging him without punishment at all.

That this was the principle and practice of the ancient tribunals of this country, no person conversant with the history of England can doubt. By the laws of Alfred, the kingdom was divided into shires, hundreds, and tithings; and each of these had a court or jurisdiction of its own. And in those times, so strict a discipline was kept up, that even in the tithings (or parishes) the inhabitants were obliged to keep watch and ward every night. This must have had a great effect on the prevention of crime; for as soon as any were committed, there was a court-leet or court-baron in every manor to take cognisance of it. The suitors (or jurors) of this court were the vassals of the lord, and the jury was called the homage. They had whips, stocks, ducking-stocks, and jails, (which were called cages,) for the purpose of punishment; and there was probably very little interval between the offence and

the trial. But one of the greatest advantages attending this mode of correcting offences was, that the punishment of the offender was immediate, and took place where all his friends and neighbors lived and witnessed it; which must have had a much more powerful effect on his feelings, character, and subsequent conduct, than any distant punishment could have, were the offender out of sight of those whose opinions he cared about. I have no doubt there are few persons who would not rather work at the tread-mill for a month, than sit one day in the stocks in their own village. All mankind are influenced by opinion; and that which they almost exclusively care about, is the opinion of their own friends and neighbors. When boys are sent to jail to the county-town, they care very little for the by-standers. Besides the contaminations they contract from others in the prison, they become hardened by associating exclusively with those whose *common condition* is that of shame and guilt, but unaccompanied by the emotions which ought to arise from them. They feel no degradation in *that society*, whatever they might in another; and when they return to their homes, (if ever they return at all,) they find very little sensation has been produced, beyond that which would have been occasioned by their absence for any other purpose. Thus the effect of punishment, by way of *example*, is lost on the offenders and on the public; and the moral degradation accompanying delinquency is little felt by the former, and little noticed by the latter.

It is impossible, from the changes that have taken place in our criminal practice, to restore those local jurisdictions, as they have been superseded by other courts, and by that system of an independent magistracy, which is justly the ornament and safety of this enlightened kingdom. But if the cognisance of offences committed by juvenile delinquents were given to a tribunal, which would proceed with immediate conviction and punishment, the expedients of *moral* and *judicial* discipline would come much more in contact with the springs of human action; and if guilt was always exhibited in conjunction with shame, pride would be one of the assistant barriers to virtue.

I am unacquainted with the number of prisoners who have been tried for felony in other counties in England; but in the county of Warwick, nearly one-half of the prisoners are under twenty-one years of age; several of whom were of an age hardly beyond childhood, and are continually returning to prison for petty thefts, sometimes committed on the very day of their discharge. For whatever propensities he might have had at his first entrance into prison, the juvenile culprit seldom leaves it so good as he entered. He endeavors to acquire by secret fraud or open violence, the means of supporting himself in every profligate pursuit. The

fruits of industry are too slow in their growth to keep pace with the premature perfection of his vitiated passions; and the steps from one crime to another become rapid and gigantic. The wisest bonds of morals are broken asunder before reason is awake, and before he is of an age to appreciate the value of character; and if he does not himself launch out into all the daring exploits of crime, he becomes an easy prey to the designs of old and accomplished villany.

It is therefore to give him a chance of regaining the character he is on the point of losing for ever, that I would delegate to the magistracy of the county that power, as an intermediate tribunal, which our ancestors formerly exercised with so much wisdom and success; and long before the bad propensities of the youthful delinquent are too deeply rooted, and long before he is stigmatised with the name of *felon*, I would try the effect of immediate and summary punishment.

Instead, therefore, of the law now affecting young culprits for simple larceny, (by which I mean those minor offences which subject them now to trial at the sessions,) I would change the *corpus delicti* into an offence of a lesser character, cognisable by two magistrates; who should be empowered on sufficient evidence to convict the offender, and sentence him to such imprisonment in an asylum set apart for such convictions, and supported by the county rate, as they should think the nature of the offence, and the benefit to the boy himself should require: such imprisonment not to exceed a limited time, to be appointed by the act, and to be shortened afterwards according to circumstances. If a discharge with whipping, or a discharge only, shall appear sufficient, then this to be at the option of the magistrates.

The advantages resulting from this alteration in the law are too manifest to need repetition—immediate punishment, the avoiding the contamination of a jail, of the disgrace of a public trial, and of the stigma of a verdict. The effects likely to be produced on the offender's mind, and that of his neighbors, by the offence and the punishment being immediately connected together, must have a decided effect in checking a repetition of the crime. The magistrates themselves under this new enactment will have the power of inflicting a minor punishment, and one from its nature infinitely more likely to deter others from committing similar offences. A boy, hardly above the age of childhood, is detected in an offence, which, if at school, would have subjected him, and has subjected his superiors in rank and fortune, to a flogging or a task. It is his first offence; his master gives him an excellent character, and will continue him in his employment, the theft is an ounce of cheese, four oranges; a bun, or the removal of some article two or three

inches from its place, but without taking it away. The magistrate feels disposed to discharge the culprit; and is of opinion, that neither public justice, nor the welfare of the boy, demand his committal. But the felony is clear, and he has no option: and a boy of ten years of age is sent to jail for two or three months, till the next jail-delivery releases him. No bill is found, or if found, the culprit is acquitted; and if convicted, his previous imprisonment, his youth, and his master present in court to take him back to his employment, operate on the mind of the court to give him a nominal punishment; and the boy is dismissed with confirmed vicious inclinations, and with a depravity of mind previously unknown and unfelt. Now these cases, and similar, are daily increasing; and I will ask, if the commitment of boys under these circumstances does not infinite and incurable mischief? Does not the confinement in jail among men of profligate and immoral habits often create vice, where none had before appeared? and when he is dismissed from his dungeon, will he return to society with the same feelings of shame and repentance with which he left it? *Early imprisonment* is therefore a double curse; for it not only does not remedy the evil, but it increases it; and lays the foundation of a career of profligacy and vice, which inevitably will lead to the gallows.

Great indeed have been the improvements of late years in our criminal code; and many important and salutary laws have passed for the protection of the public. But, as the end of all law is the prevention of crime, and the reform of the offender, we are bound so to apportion our punishments that both these objects may be effected: for punishments by man were never intended, nor can we so apportion them, as to be an atonement for the offence committed; they are meant as the most effectual means to deter by example those whom precept has no power of restraining. The mere change therefore from lenient laws to severe, or from severe to those of a milder character, is a question of political expediency, and must depend on circumstances in a great measure unconnected with immorality. Thus, crimes which are easily committed, and which would be ruinous to a commercial country, if not vigorously checked, are visited with punishments apparently more adapted to offences of deeper dye, but of rarer occurrence. If, therefore, not merely the same result, but greater benefit shall accrue from changing a felony to an offence cognisant by the magistracy as a malicious trespass, the alteration will be a double blessing, by mitigating the severity of the laws, and at the same time preventing a breach of them; and he who now, by the neglect of parents or pressure of distress, bad company and bad example, is hourly exposed to have all these evils fixed for ever by early imprison-

ment, may have a chance of being rescueded by that parental arm which will interpose between him and confirmed degradation.

And indeed it is this interposition which is the real object I propose, and the most satisfactory argument in its favor. For who are the objects of the alteration? Those who, prior to that age which the law has fixed for the termination of infancy, ought to be under the control of parents, guardians, or masters; to watch over their offspring or apprentice, to restrain him by proper coercion, and educate him in virtuous and religious principles. When therefore, by the loss or neglect of his *natural* guardian, the youthful delinquent is thrown on the world without any guide to direct or befriended him, instead of being subject to the utmost severity of the law, he will experience only its protection; and he will find already appointed as the *legal* guardians of his infancy, those who, by judicious restraint and by well-timed instruction, will supply the place of his own relatives. It will be an "act for appointing guardians for the deserted and friendless," rather than an addition to our Criminal Code; and instead of being a law of punishment, will be the dispenser of blessings.

There is another consideration in favor of the alteration I have proposed, which in the view and on the ground I have taken on this interesting subject, is of secondary importance. I allude to the reduction of the county expenditure. I have no means of ascertaining the expenses of prosecutions in other counties; but in the county of Warwick they average £5000 per annum.¹ Now, out of the number of prisoners tried for felony, nearly one-half are under age; and supposing that two-thirds of such number were proceeded against in a summary manner, it follows that the expenses of prosecutions would diminish £1500 per annum, besides a reduction of expenses both before and after conviction; and if I may calculate on a diminution of crime, in consequence of thus cutting off its most prolific source, the pecuniary saving would be very important. But I repeat that this is a consideration which ought not to weigh a feather in legislating on the subject; for the alteration proposed should stand or fall on its own merits.

¹ Commitments for Felony in the County of Warwick for the last seven years.

	No.	Expenses of prosecutions .	£35,012
		Conveyance of prisoners to	
Assizes	1776	Jail and Bridewell . . .	4118
Sessions	2062	Disbursements at the Jail	
		and Bridewell	42,473
	3840		
			83,503
Of these were under age .	1813		

Gentlemen, I know I am addressing persons whose magisterial duties have made them thoroughly acquainted with the subject of this letter; and I am certain I have stated no fact, to the truth of which your own experience will not abundantly testify. My object in addressing you, is most earnestly to call on you to take this subject into your immediate consideration; and if I should be so fortunate as to convince you of the truth of the general principle I have laid down, that early imprisonment is the primary cause of the increase of crime, to implore you at your different quarter-sessions, to unite in petitioning the Legislature to make such alteration in the law of Simple Larceny, as shall in their wisdom appear most fit and expedient.

I am, Gentlemen, your obedient Servant,

E. EARDLEY WILMOT.

SKETCH OF AN ACT OF PARLIAMENT

For altering the Law of Simple Larceny as affecting Juvenile Offenders.

WHEREAS it has been found by experience, that great evils have arisen from the commitment for trial of offenders of tender age accused of simple larceny; whereby such early imprisonment has tended to harden them in vice, and to render any attempt at reform more difficult and unavailing; And whereas it is expedient to provide a summary mode of proceeding against such offenders instead of that now in force; Be it therefore enacted, &c. &c. That where any person shall be accused of simple larceny before two or more justices of the peace, it shall and may be lawful for such justices to inquire into the age, or reputed age, of such offender; and if it shall appear to them that he or she shall be under the age of twenty-one years, every such offender, being convicted of the offence so charged by one or more credible witnesses, or on their own confession, shall, at the discretion of such justices, be committed to an asylum or house of correction set apart exclusively for the reception of such offenders, for any time not exceeding twelve calendar months; or the said justices may order the said offenders to be whipped and discharged, or discharged only, at the discretion of such justices; and if any person so convicted shall be afterwards accused of simple larceny before one or more justices of the peace, then such person shall be proceeded against in the manner pointed out by the various statutes now in force respecting simple larceny.

II. And be it further enacted, That the two justices of the peace, before whom such offender shall be brought, shall have authority to summon all persons, who know or declare any thing touching the offence of which the party stands accused, to appear before them at such time and place as they shall appoint, then and there to give evidence against the party accused, or on his or her behalf; and in case such person so summoned shall neglect or refuse to appear, it shall and may be lawful for the said justices to issue their warrant to compel such persons to attend.

III. And be it further enacted, That the two justices, before whom such offender shall be convicted, are hereby authorised and empowered, at the request of the prosecutor, or any other person who shall appear voluntarily or on summons to give evidence against any person so accused, or on his behalf, to order such sums of money to be paid to them as to them shall appear reasonable and sufficient for the expenses they have incurred in such attendance; and also to compensate them for their trouble and loss of time therein. And although no conviction shall take place, it shall still be lawful for the said justices, where any person shall have attended voluntarily or on summons, to order unto such person such sums of money as shall appear to them reasonable and sufficient to reimburse them for the expenses which they shall have incurred by reason of such attendance; and also to compensate them for their trouble and loss of time. And the amount of the expenses of attendance before the said justices, and the compensation for trouble and loss of time, as well as the expense of conveying the offender to the house of correction or asylum, shall be ascertained by the certificate of such justices, delivered to the treasurer of the county, where such conviction or proceedings shall take place, and he is hereby authorised to pay the same.

IV. And be it further enacted, That the two justices of the peace, before whom such offender shall be brought, shall take the information on oath of those who give evidence of the facts and circumstances of the case, and shall put the same in writing; and such justices shall subscribe such information and examinations; and shall deliver the same, together with the conviction, to the clerk of the peace or other proper officer of the court of the next jail-delivery in the county where such conviction shall have taken place.

V. And be it further enacted, That the justices of the peace, at their next quarter-sessions of the peace after the passing of this act, shall appropriate some convenient and sufficient part of the house of correction for the exclusive reception of offenders committed under this act, entirely distinct from all other prisoners, or they shall erect, purchase, or rent some building or buildings with or without land, in any part of the county, which to them may seem most fit and convenient, for the exclusive reception of such offenders; and shall provide whatever appears to them to be necessary for the maintenance, labor, and instruction of the said offenders; the expenses incurred thereby to be defrayed out of the produce of the county-rate, in the same manner as the other expenses of the county are defrayed.

A LETTER
TO THE RIGHT HONORABLE
LORD VISCOUNT GODERICH,
 ON
THE NECESSITY OF A CLOSE ALLIANCE
 BETWEEN
ENGLAND, FRANCE, AND THE NETHERLANDS.
 BY AN ENGLISHMAN.
 LONDON:—1828.

[The following letter was written before the resignation of Lord Goderich was contemplated as probable. The letter is, however, addressed to him as the recognised head of a liberal Ministry, and not in his individual capacity; and the address has, therefore, been permitted to remain unaltered.]

So be there 'twixt your kingdoms such a spousal,
 That never may ill office, or fell jealousy,
 Thrust in between the paction of these kingdoms,
 To make divorce of their incorporate league;
 That English may as French, French Englishmen,
 Receive each other!—God speak this Amen!

Henry V., Act 5.

MY LORD,

IN addressing your Lordship on a subject of the most vital importance to the interests of this country, I am anxious to avoid all appearance either of servility or of presumption. The observations which I venture to offer to your Lordship's notice are such as must have suggested themselves to many others, who, like myself, have remained in the humble station of spectators, without being called on to bear any part in the varied scenes of the political drama. It cannot, therefore, be supposed that I venture to obtrude my sentiments on one, whose experience and information must far exceed mine own under the delusion of self-conceit; and still less probable must it be deemed, that an obscure individual should endeavor to ingratiate himself with one whose situation in life is not only far above, but also most widely separated from his own. My real motives can be thus briefly stated. It is not sufficient that a large proportion,—nay, even that the majority of the community,—should think rightly, while others are to be found who, either designedly or from ignorance, are actively engaged in disseminating error, and at the present moment ample employment appears to have been found both for the malevolent and the weak.

The overthrow of a party originally formed during a conflict of

opposite prejudices, and which continued to regard the defeat of their opponents as the test of their own wisdom, was an event anticipated by all who had not suffered themselves to despair of that natural good sense which has been fostered by the institutions of our country; whilst at the same time it could not be expected that the enjoyment of power would be quietly relinquished, or that the eyes which had been dazzled with its charms should be immediately opened to the milder but less seductive prospect of a liberal and conciliating policy. Fortunately, however, for the present generation, it appears to be now admitted that the happiness of the governed is the object of Government; and not less fortunate is the recognition of some degree of capacity in the people of every country to decide on the best mode of securing that happiness.

I address you, therefore, my Lord, as the successor of Mr. Canning, who had the manliness to carry into execution those measures of liberal policy which had long been recommended in vain by the most illustrious opponents of his former colleagues. By giving him your support, you have shared his fame; and what is of more importance to the people of England,—I might say to the civilised world,—you have identified your principles with those which he adopted. The domestic difficulties to which he was exposed, already offer a less stubborn resistance; and Europe anxiously looks forward to the conduct of an Administration which may so far act in unison with the general feelings of their countrymen, as to afford a security against any return of the vacillation which disgraced their predecessors.

The subject of the present letter is intimately connected with the above prefatory remarks, since the prejudice that led to the formation of the late Ministry operated principally on our foreign policy; and the change which became perceptible in our relations with the continent of Europe, soon after the death of the late Lord Londonderry, does not yet appear to have effected a sufficiently determinate reaction. In order to express myself more clearly, and to set forth in the most striking point of view the urgent necessity of adopting a system which shall be at once enlightened, efficient, and uniform, I must recur briefly to the events which succeeded the termination of our late contest with France, and the settlement of Europe by the Allied Powers at the Congress of Vienna.

Had we been told that it was intended to select, as Plenipotentiaries of the different Powers then assembled in Congress, some young inexperienced statesmen, impressed with a vivid imagination of that which had recently passed before their eyes, and, like children before a mirror, fancying that they saw distinctly the straightforward course for the future, in the reflection of the past, we

should probably have formed some such conjectures as these with regard to the conduct of our juvenile diplomatists. "France (they would have said) exhibited such a persevering spirit of domination under every form of government, her resources are so inexhaustible, her population so restless, and her frontier so extended, that it is impossible to adjust the balance of European power, unless we confine with the most watchful and rigorous severity this mercurial make-weight, which is perpetually disturbing the equilibrium." This fundamental maxim being once adopted, and the situation of France being most favorable for any experiment which might be suggested, every artifice which policy could devise, every means of restraint which alarm could command, would occupy the almost exclusive attention of the victorious deliberators.

Adde cicutæ
Nodosi tabulas centum, mille adde catenas,
Effugiat tamen hæc scæleratus vincula Proteus.

But should there be present, besides the novices we have alluded to, some crafty speculators versed in the old Machiavelian theory of power, and incapable of appreciating any advantage less tangible than an extended territory, watching and fomenting with an assiduity resembling that of the owl in the fable the fears and jealousies of their neighbors, it would be difficult to imagine a more favorable opportunity for the development of their ingenuity.

Now, it cannot be denied, that although our first hypothesis appear at first sight extravagant, yet the arrangements which took place at the Congress of Vienna present us with results similar to these above deduced from it. Experience and wisdom are not always acquired by years, and those who have been nurtured amid the mists of prejudice will with difficulty become capable of adapting their vision to a more extended horizon. The principle¹ of alarm had effected such wonders in this country, that it now seemed irresistibly to hurry on its votaries, at a period when the master-conjuror, who first raised the perturbed spirit, would have quietly consigned it to its natural abode of darkness. The exhausted state of France after the continued campaigns of Napoleon, and especially after the last disastrous effort of his ambition, —the gradual change which had been effected in the disposition of the people by the harassing levies of the conscription, and in that of the higher classes of the community by the unconcealed despotism of their ruler, were at all events sufficient guarantees for the

¹ The lamentable effects of the alarm-phrensy on such a mind as Burke's, are feelingly commented on by the author of the article on the correspondence between Burke and Lawrence, in the last number of the *Edinburgh Review*.

present of the peaceable intentions of her future Government under any other form. The restoration of the Bourbons, which it would be difficult to justify according to the strictest rules of morality, was nevertheless, under the existing circumstances, one of the best expedients which could be adopted. France had, by the revolution,¹ succeeded in overthrowing the tremendous obstructions which presented themselves at the very commencement of her career towards civilisation; in which term I include all that tends to diffuse information, vigor, and happiness, throughout the whole mass of mankind, and not exclusively either the polish of the drawing-room, or the combined utility and elegance of science and literature. But although her path was now clear, her progress was retarded by the selfish efforts of one individual, who attempted to misdirect energies which he could not repress, and by assuming to himself the merit of improvements irresistibly dictated by the spirit of the age, affected to lead where he was in reality impelled, until he had acquired the confidence of the most reflecting, and had become the idol of the multitude. The period had, however, at length arrived when the former were undeceived, and the patience of the latter nearly worn out; and by placing the Bourbons on the throne, it might fairly be hoped that the strong tie of mutual interest would unite those who had equal cause to dread the return of the despot and the re-establishment of despotism. A full development might thus be given to the civilising principle which had hitherto been confined in its operations to the improvement of the social relations between individuals, but had not been applied under Napoleon to any hazardous experiments in Government.

The only mode, however, of deriving any advantage from the first step was one which does not appear even to have been thought of; and we must thence conclude that the restoration of the Bourbons, as far as the Government of this country had any share in the measure, was resolved on under the influence of the principle of alarm,—if indeed any principle whatever actuated the minister who then directed our foreign policy. A current suggestion (which, I confess, seems to afford a more natural solution of the many inconsistencies with which that policy has amused the rest of Europe) has asserted, that the idea of the restoration was one of the cabala derived from the mystical stores of the great wizard him-

¹ "La Revolution Francaise, a remplace l'arbitraire par la loi, le privilege par l'egalite; elle a delivree les hommes des distinctions des classes, le sol des barrieres de provinces; l'industrie des entraves des corporations et des jurandes; l'agriculture des sujections feudals et de l'oppression des Dimes; la propriete des genes des substitutions; et elle a tout ramene a un seul etat a un seul droit, a un seul peuple."—*Mignet on the French Revolution.*

self; that it was on this talisman he relied as a means of weathering the storm, in the midst of which he was snatched from the helm: but if the case were so, we have been exposed to the same danger as the hero of the fairy tale, who, when he had witnessed the charm by which twelve dervises were made to shower wealth from their left hands, unfortunately erred in the application of it, and narrowly escaped being beaten to death with their right.

There was, as I think, my Lord, it will now be admitted, one real object to which this country had to direct its attention,—namely, the firm and undaunted opposition of the civilising to the despotic principle. And for this purpose the readiest means would have been the erection of a barrier physically impervious to the latter, with the firm conviction that nothing but that violence can check, even for a time, the mild and insensible, but beneficent progress of the former. Let us examine, therefore, how far such an object was pursued. France, as we have observed, was in every respect predisposed in favor of the civilising principle; the influence of her neighborhood to Spain, combined with that which had been acquired by England, owing to the splendid achievements of our army in the support of the Sovereign recognised by the Spanish nation, and the almost filial respect of Portugal, opened at once a wide field for the exertion of our best energies in the behalf of rational liberty. On the north-western frontier of France, the spirit of freedom in Holland and the Netherlands, dating from a period anterior to that of its effectual display in our own country, still held out the promise of future triumphs: and we must acknowledge, that by some lucky hit, we, in the fervor of our spleen against France, fell on the fortunate expedient of consolidating the two former countries, and subjecting them to a Sovereign who appears worthy of the important charge thus reposed in him.

The unhappy effects, however, of the consternation which had once, more or less, appalled every state in Europe, still prevailed. The sole object to which the attention of the English Minister was directed was the crushing of the once formidable enemy. Nor do I mean to insinuate that any more enlightened motives actuated the other members of the Congress; on the contrary, the selfishness of their proceedings, whilst it availed itself of the prevailing error to secure permanent aggrandisement, did not exhibit any proof of greater discernment or foresight. A partition-treaty was, indeed, out of the question, although the proceedings of the Congress sufficiently evince that no moral restraint withheld its rulers from the spoil. Neither can we suppose that Burke's prophecy with regard to the celebrated conspiracy against Poland was yet sufficiently intelligible to those whom it denounced. But Poland was only in the second stage of civilisation, and had yet to pass from

feodality through the several furnaces of the despotism of subtlety (such as those of Louis XI., the elder Ferdinand, and Henry VII.), the tyranny of anarchy, and that which hath ever succeeded it, of military violence, before it could be qualified to bear the genuine stamp of civil liberty. The distracted jealousies of a haughty aristocracy rendered any concentration against the oppressors absolutely impossible; whilst the calm but energetic spirit of liberty, no less than the injured vanity of the associates of Napoleon in victory, would, had a similar outrage been meditated, have rallied every Frenchman round the national oriflamme, as at the youthful and vigorous era of the Revolution. Restraint, therefore, and coercion were the only resources.

Above all, the frontier of the Rhine was pointed out with plausibility as demanding the watchfulness of a military Argus. The Netherlands—which have, both from the nature of the country and their connexion with other Governments, been considered as the arena of Europe from the battle of Bovines to that of Waterloo—might fairly claim an ample security not only against France, but also the more formidable and less civilised Powers beyond their northern frontier. But the former was alone thought worthy of attention. Prussia and Austria, and other Powers whose resistance might be supported by the force of Prussia and Austria, were intrusted with the most important fortresses on the Rhine; and thus the road was at once opened to any future ebullition of despotic violence. The danger would not, however, have been imminent, since the resources of France and the Netherlands would at any time be sufficient to keep both Austria and Prussia in check; but in the distance lurked a much more powerful adversary. The wild ambition of Charles XII. first introduced the barbarous Asiatic hordes of Russia into Europe; that of Napoleon has consolidated their power, and rendered them integral members of the great European commonwealth. Yet, notwithstanding that the influence of commerce has communicated the refinements of domestic life to the inhabitants of Petersburg,—and this influence has diffused itself through a considerable part of the western territory of Russia,—that vast empire must as yet, even in its most favored portion, be considered as scarcely emerged from infancy. The feudal spirit yet predominates; and the circumstances attending the deposition of the present Emperor's father, and his own accession to the throne, evince that want of stability in the Government which is a marked characteristic of society at such an epoch. Here, then, was required the vigilance of the statesman, and the generous solicitude of the philanthropist. Austria, at present, exhibits the transition from feudal turbulence to ultimate civilisation, although she has as yet advanced but one step towards the latter; and, if a

more enlightened age be incapable of discovering a safer path, must force her way through troubled waters and blighting deserts ere she reach the promised land. Yet is her present state negatively favorable to the common cause of mankind. The despotism which has been acquired by the benumbing acts of policy will not readily allow the torpor, which is its only security, to be excited into action; whilst the restless spirit of a feudal subject must be directed on others, if the Sovereign would protect himself; and the turbulent baron must be allowed, or even encouraged, to dissipate his wealth among the more compliant commons, whose sluggish growth keeps not pace with the rapid downfall of the former, until they both sink beneath the oppressor. The mutual jealousies which ever exist between two neighboring states where the real principles of government are not understood, would have rendered Austria and Prussia fit curbs for the impetuous spirit which threatens us from the north; but instead of even confining Russia within the bounds which limited her territory until the treaty of Tilsit, Austria and Prussia were compelled to submit, whilst their formidable neighbor traversed the Vistula, and, by taking possession of the duchy of Warsaw, commanded at once a direct road to Vienna and Berlin. By either of these routes, but more especially the latter, we may expect to see the Cossack hordes introduced at once into the heart of Europe. From the Oder to the Rhine there is nothing which can for an instant arrest their progress; and were the question proposed to Austria in her present condition, whether she would prefer yielding a free passage to the tide of barbarism to the glory she might obtain in hazarding a conflict in the behalf of civilisation, there can, I fear, be little doubt as to her choice. This concession of territory to Russia was not merely vicious in principle, and palpably injurious to the real interests of this country in its immediate consequences, but led to that disastrous and disgraceful train of compensations (as they were termed) which have stamped indelible disgrace on our country. Some pretext was offered for the spoliation of Saxony, by the firm adherence of its Sovereign to the cause which he had espoused; but the impolitic cession of the richest provinces of Italy to Austria, and the cold-hearted barbarity which sacrificed the unoffending and defenceless republic of Genoa, leave room for only one consolatory reflection, in the proof they have afforded of the sympathy existing between folly and wickedness, and the confirmation of our belief in the opposite union of wisdom and virtue.

The subject, my Lord, would become much too extensive, were I to pursue in detail the various errors which characterised the conduct of our Minister at the Congress of Vienna. I will there-

fore only consider the bearing of that conduct on our future policy, and on the feelings of other nations towards us.

It was natural that the persevering coercion under which the French indignantly groaned should excite in them feelings of aversion towards the Allied Powers, and more particularly that nation which the vulgar still looked on as a rival, and in which the reflecting had been so bitterly deceived. Was it not natural for those pure friends of liberty, who at the brightest period of the revolution had longed with an almost filial reverence to receive at our hands the blessings of freedom and civilisation, and who had, even during the heat of a protracted contest, looked forward with ardent hope to a period when the madness of the people, bursting from their chains, should cease to be mistaken for an incurably depraved and exterminating fury? Was it not natural, I say, for such minds to expect that the sun which they had worshipped in their first awaking would, now that they were far advanced in their rapid path, visit them with the full illumination of its noontide splendor? But, alas, they looked in vain; clouds and thick darkness hid its beams. The pillar of fire now shone on the Egyptians, and impervious mist brooded over the land of promise. From that moment all connexion or sympathy with England was at an end: those who had been imposed on them as rulers were received with a coldness which inspired reciprocal disgust; and the return of Napoleon was hailed by the indignant youth of France, while not one voice could be raised in favor of the Monarch who had preferred the antiquated title of legitimacy to that which is registered in the hearts of a confiding people. The Allies again triumphed; and the success of Napoleon appears to have excited no more attention in that point of view,—at least under which it should have been examined,—than the faults of some escaped highwayman; and all was conceived to be extremely well-arranged by despatching the disturber to his new jail at St. Helena.

At the Congress of Aix-la-Chapelle, the celebrated convention was entered into, which, but for the confidence reposed by a great capitalist in the immense resources of France, could only have been carried into effect in the shape of an absolute partition—that is to say, could never have been carried into effect at all. The enormous sum of 700 millions of francs was imposed on the French nation; and however trifling this may appear to us, who for a long time have been trying to what extent the safety-valve of the political machine may be loaded without risking an explosion, the total impossibility of raising the amount within the prescribed time of five years, without mortgaging or absolutely sacrificing a large proportion of the territory of France, would in all probability have terminated the experiment at once in that country. Add to this

the annual charge of 50 millions of francs to be paid to foreign troops, who were to be the conciliating supporters of a constitution conceded by the Sovereign, and a tolerably correct idea may be formed of the feelings towards this country which would be inspired by such a system of grinding and vindictive oppression. We recognise in private life the wisdom as well as the magnanimity of mild forbearance and conciliatory conduct towards our enemies. The desolating effects of vengeance portrayed by the great novelist in his masterly delineation of the uncontrolled passions of the Highlanders excite our commiseration for the ignorance, no less than our horror for the crimes of the wretched victims of this destructive passion. And yet, in the cool deliberation of the Cabinet, the ebullition of inconsiderate passion and the insolence of victory are to be dignified with the names of vindicated honor and national glory. The same spirit of unkind suspicion and ungenerous hatred has operated almost to the present hour. In every year since the conclusion of the late war, the Duke of Wellington has made periodical visits to the fortresses on the Rhine. The object of such visits, made by the victor of Waterloo, could not be a subject of doubt to the French nation; and instead of promoting an interchange of good offices between the people of France and the nations bordering that frontier, which is to us of the utmost importance, we were merely directing the attention of an enemy to the quarter in which they perceived an attack was most dreaded. Truly may we say with the Satirist—

Evertere domus totas optantibus ipsis
Di faciles——

From the final downfall of Napoleon until the overthrow of the Constitution in Spain, a continually retrograde movement discouraged the real friends of social order. The reproach of *Anglo-manie* in France was no longer uttered solely by the partisans of absolute monarchy; for there existed on all sides such a detestation of the part which England had taken in the *soi-disant* settlement of Europe and in the convention of 1815, that those who dared to hope for better fruits from a soil once so fertile were regarded as traitors to their country, and open advocates of the enemy. The Crown availed itself of this temporary discouragement of the liberal party to make rapid inroads in the Constitution. The most unholy purpose of the *soi-disant* Holy Alliance was not only publicly avowed without any remonstrance on the part of England, but secretly encouraged both by the past and continued tendency of our own Government to the suppression of public spirit in every quarter. At length the more flagrant acts of Ferdinand of Spain occasioned the violent reaction which nearly hurled him from his

throne. Naples attempted to follow the example of Spain; and the changes effected in Piedmont threatened Austria in her most vulnerable as well as most valued principality. But the inert mass of ignorance and superstition which weighed down both Spain and Naples, rendered these efforts as abortive as the convulsive struggles of Emeladus beneath *Ætna*. Industry and the neighborhood of France and Switzerland had done more for the Piedmontese; but the imposing attitude of Austria, and the hopelessness of assistance from any other power, damped every effort. I do not join with many of the most ardent friends to freedom in regretting that England was not actively employed in supporting these ineffectual struggles: for, although, had we from the first pursued a different course, the mild influence of civilisation might, by the united zeal of England, France, and other constitutional Governments, have diffused itself over south and western Europe; yet in the situation to which our misconduct had reduced us, distrusted by our natural friends, and watched with jealousy by our natural enemies, any appeal to arms in favor, be it observed, of people as yet incapable of discerning their own real interests, might have been fatal to this country, and have extinguished at once the hallowed flame which we are, I trust, destined to cherish for centuries to come. Our policy, however, was vacillating; until, at length, the feelings of the people of England became openly opposed to that of the Minister, when the disastrous consequences of his negotiations with the most despotic Powers were palpably manifested. Englishmen felt their most generous indignation awakened at the melancholy fate of the Spanish and Italian patriots. Our alliance with Austria and Russia, after the resolutions taken at Troppau, Laybach, and Verona, was felt to be as unnatural as the conjunction of the dead and the living; and we shrunk with invincible repugnance from the connexion into which we had been forced by our diplomatic Mezentius, whose death opened to our wishes a new and enlightened era.

The gradual decline of the alarmist faction, after the death of Lord Londonderry, and the ascendancy acquired by the more liberal portion of the Cabinet, supported by the suffrages of the youthful members of the community who had now grown up to maturity, with minds unshackled by the prejudices and fears of their parents, allowed a full scope to the efforts of national improvement. In our domestic policy the amendment of the law, which had long been steadily resisted on the plea of unnecessary innovation, was sanctioned by the general applause bestowed on the minister who thus, at length, adopted the measures urged in vain by a Romilly and a Mackintosh. The principles of free-trade opened a new career for the development of talents hitherto content to slumber in the em-

bryo of theory, and prepared to strengthen the strong tie of common interest which can alone bind nation to nation in indissoluble friendship. The recognition of the Spanish colonies of America was a glorious proclamation to Europe of our secession from the northern conspiracy, and was followed by the prompt assistance afforded to Portugal against the drivelling efforts of the Spanish dotards. The cause of civilisation appeared to revive, though but slowly, in the south of Germany. The constitutions of Wurtemberg and Bavaria, and the mild Governments of Baden and of several of the smaller Principalities, allow us to hope for a diffusion of the same spirit, and the concession of the long-promised constitution to Prussia. Hanover, too, may yet set the same glorious example to the northern states of Germany as the country with which she is now so intimately connected has proudly exhibited to Europe. For Austria and Russia we dare scarcely do more than anticipate the progress which the human mind must eventually make from barbarism to civilisation. They appear scarcely to have commenced this career, and but little, therefore, can be concluded from any difference which has taken place in the spirit of the Government of these two countries since the pacification of Europe, and that little I can more conveniently allude to at the conclusion of my letter. Of France, also,—of her conduct towards Spain, and present disposition towards England,—I will speak more fully in the course of the remarks I shall make on the immediate object of my addressing your Lordship.

The event which at the present moment almost exclusively engrosses public attention, requires a few observations on the state of Greece and Turkey. It is indeed singular that there should have existed for nearly four centuries in Europe, a people connected by their religion, their language, and their recollections of the past, with the dearest and most enthusiastic associations of the enlightened portion of the same continent, and yet themselves groaning under the most execrable and debasing tyranny, infuriated both by the intolerant spirit of fanaticism, and the natural antipathy of ignorance and barbarism to knowledge and civilisation. In the process of time, it is true that the communication with Europe had somewhat humanised the oppressors, whilst their tyranny had in a more rapid progression enervated and almost brutalised the oppressed. But the same language (with but little variation) which in the production of the Attic historians, philosophers, poets, and orators, breathes forth their ardent devotion to the cause of liberty, was yet so generally in use, as to open the treasures of antiquity to the least curious of their descendants, and it was not probable that the cry of liberty (feeble as it was) on the peninsula of Italy should fail to be echoed back from the opposite shores of Greece. In the

mean time an opportunity was offered to Russia of prosecuting one of her most favored schemes of aggrandisement. The pretext of the protection of a common religion might serve her purpose, where even the suggestion of any regard for the emancipation of injured subjects would have been preposterous, and every scheme which would put her in possession of the three provinces was equally acceptable. The danger of a Russian army assembled on the Pruth, whose march would soon become no less necessary for the security of the Autocrat himself than for the extension of his dominions, justly alarmed the able Minister who presided over our Foreign Department. In order to allay the evil which could scarcely be subdued, the Duke of Wellington was despatched to St. Petersburg, and with the subsequent co-operation of France, a league was formed which should hamper the movements of their ambitious ally, and, if possible, by the imposing attitude thus assumed, induce the Porte to make such concessions as would leave Russia without a pretext for commencing hostilities.

An unforeseen event has, however, frustrated the expectations of Mr. Canning; and I am thus, my Lord, led immediately to the subject which now imperiously demands our attention. The results of the battle of Navarino are yet enveloped in fearful mystery. An alarm which for once may be salutary, appears to be now excited; and what course is to be pursued to secure us against the threatened danger? The moment in which the Russian Autocrat passed the Vistula, should have been that of an indissoluble union between England, France, the Netherlands, and every other nation where the civilising principle could be discovered in activity. But that moment has passed; and Russia, already so disproportionably vast, has, if we can trust to the public sources of information, already secured to herself the circuit of the Black Sea, and will shortly, no doubt, advance within a few weeks' march of our Indian territory. Shall we, then, delay our union with France until the flag of Russia is displayed in St. Sophia—until her squadrons, combined with those of Austria, ride triumphantly in the Mediterranean, and Greece, and Italy, and Spain, and perhaps France herself, be doomed to an irrevocable subserviency? No; let us rather strain every nerve to confine this gigantic and ill-regulated force within its proper limits. Let us trace out the strict line of demarcation between light and darkness, and prevent the diffusion of the latter over the earth. Surely the monarch whose dominions encircle our globe cannot with any justice complain:

Tenet ille immania saxa
Vestrus, Eure, domus, illa se jactet in aula.

There can be no doubt of the evil, for which many remedies may

be suggested ; and it would be presumption in me to press any particular detail on your Lordship's notice. The establishment of Greece as an independent but tributary republic, or the erection of a monarchy on the ruins of Mohammedan empire, in case of the obstinate resistance of the latter, present no immediate objections ; but I am only anxious to direct the attention of the public to the one important step on which the success and utility of every future arrangement must depend—I mean a strict union between the constitutional Governments of Europe.

It is true, that so recently as in the debates which preceded our late contest with France, the senseless term of our “natural enemy” was revived as an appeal to the feelings of the populace ; but at this moment, it would scarcely, I think, be listened to by the most unreflecting. What can the term be supposed to signify ? Is our proximity a natural ground of enmity ? Is it supposed as impossible for two neighboring nations to harmonise, as it is for the two adjoining chords of a musical instrument ? To follow up the reasoning, Russia must, I presume, be termed our natural friend, on account of the distance which now, at least, separates us. But to cease such trifling, the most natural enmity—the only natural enmity which I can comprehend, is that of virtue and vice—knowledge and ignorance—light and darkness. Well might the Emperor of Austria tell the professors at Laybach, that he wished to have obedient, and not learned subjects. His was the antipathy of darkness to light—

Deep on the dismal regions of the dead
Th' infernal monarch rear'd his horrid head,
Leap'd from his throne, lest Neptune's arm should lay
His dark dominions open to the day,
And pour in light on Pluto's dread abodes,
Abhorr'd by men, and dreadful e'en to gods.¹

It is also true, that we have by a series of blunders been placed in a hostile and, I will say, unnatural position towards France.² The conduct also of France with regard to Spain will, I am aware, be objected as being in opposition to what I have here termed the civilising principle. But we may be assured that had we from the first evinced a disposition to enter into a cordial union with the French, we should have secured an enlightened Government in that country in the first instance ; and should have been enabled at Verona, with its assistance, to guarantee such a constitution to Spain as would have gradually diffused the information which alone

¹ Pope's Homer.—The spirit of the original is incapable of transfusion, but the sentiment is well preserved.

² Lord Castlereagh concurred with the Ministers of the northern Powers in considering that a liberal minister ought not to be countenanced in France. The Duke of Richelieu was, I believe, alluded to.

renders man capable of freedom, by teaching him to unravel, from the entangled mass of enjoyment and misery, the clues which may serve him as unerring guides to happiness.

The conduct of France was the result of the measures adopted by us at Vienna and Aix-la-Chapelle. The war with Spain was undoubtedly popular; and on no account more so, I admit, than because it was known that England was opposed to it. A natural feeling of enthusiasm aroused the indignation of the French youth, which, combined it must be allowed with the leaven of the military frenzy, caused a general ferment throughout the country. The well-disposed and more experienced were obliged to give way to the arts of the designing, seconded by the vehemence of youth; for the war with Spain was regarded as the emancipation of France from her servitude; and in bursting from her chains, she fell with the exultation of revenge on a system supported by the good wishes at least of her most inveterate foe. The act was not, I am persuaded, the calm deliberate resolve of the French Cabinet, which has since succeeded in guiding the violence it could not restrain; and the very army which marched to the support of despotism, is now protecting Spain against the cabals of the most despicable slaves who have ever disgraced the name of man. Nay, I will not hesitate to affirm, that the disgusting spectacle of priestcraft and despotism exhibited to the eyes of the French army in Spain will produce, as its necessary consequence, the same salutary effects as the exhibition of the drunken Helot to the free-born Spartan.

Most sincerely, my Lord, do I believe that the moment is now arrived in which the future welfare of mankind may be secured or marred for ages. Whatever question may arise as to the prudence of the late Mr. Canning's speech on the memorable evening of the King's message with regard to Portugal, some of the truths contained in it were as striking as they were forcibly pronounced. The future wars which may desolate Europe will exhibit the conflict of national opinion, instead of the ambition of individual despots on the one hand, with the in itself inert mass of slavery and ignorance, animated by the stirring spirit of that ambition, on the other. The united efforts of the former will be irresistible. *Magna est veritas, et prevalet.* But truth is one and indivisible, and such must be the tempers of her worshippers. United with France and the Netherlands, and such Powers in the south of Germany as have obtained constitutional Governments, the cause of civilisation may be secured from every attack. To diffuse its benevolent principles, we must not have recourse to violence, but trust to the efforts which will be produced by the fertilising streams derived from the fountain-head. The principle to which we must oppose our combined resistance is isolating by its nature, for it is the prin-

ciple of exclusive self-interest. Can Austria, for instance, hesitate, at the present moment, whether she ought to co-operate with her redoubted neighbour, or will she not rather participate in the jealousy experienced by those who are opposed to her encroaching policy?

And let not the circumstances under which Russia at present marks her designs deceive us: they can scarcely deceive the most unthinking. The bare fact that the avowed despotical principle has been lost sight of, that a people struggling for liberty against the oppressor have received the aid of a member of the Holy Alliance, is sufficient to awaken our utmost suspicion. Whether England or France have acted wisely whilst adopting such an ally, or whether proper precautions have been taken to prevent the mischief which may result from the presence of a Russian army in the immediate vicinity of the three Greek provinces under her protection, time will probably develope to the laity, who are uninitiated in the negotiations which have taken place. One point is sufficiently obvious—namely, that a strict union in the councils of England and France is at this critical moment particularly necessary. Can we forget that in the very bay of Navarino, the Spartan pride was so humbled by the rival Republic of Athens, as to render any atonement less than that of the destruction of the Athenian liberty unavailable? And shall we forget also the advantage taken by the despotic Sovereign of Macedon, of the dissensions between the two States which should have been the guardians and protectors of the common liberty of Greece? The danger, thank God, is not equal; but is not the parallel between our situation and that of the Athenians, addressed by Demosthenes,¹ at this moment most striking? Are we not in each succeeding day inquiring what news from Greece?—as if there were any greater news than that of a combination of England and France to throw Turkey into the gigantic arms of Russia.

The evils attendant on the want of a generous sympathy between those who desire the happiness of mankind have already been touched on, and may surely be considered as a no less cogent reason for our union with those who would willingly embark in so glorious an enterprise, than the direct advantages to be derived from such an alliance. If we persevere in the system adopted at Vienna and Aix-la-Chapelle, what can we expect but the recurrence of the disastrous effects already experienced—the discouragement of the wise and good, the exultation of the weak and wicked, and a general distrust and disunion, whose effect was well known of old to be the most favorable symptom for the despot? *Divide et impera*

¹ See the 1st Philippic.

is a maxim which has stood the test of ages. The people will be blinded by the foolish charm of military glory, the favorite bauble thrown in the way by the Machiavelian politician ; and there can be little doubt against whom the military ardor of France will be first directed. The whole line of the Rhine would in a few days be secured—the field of Waterloo would again be contested ; and happy should we be if the result gave no one more chance of profiting by the experience of past follies. The consequences, on the contrary, of an overthrow and of the final triumph of despotism would, it is to be feared, be manifested in the diffusion of total darkness over Europe for centuries yet to come.

If we can trust to appearances, the result of the late elections in France will infallibly be a change of the Administration in that country, and such a change must bring into power men who stand pledged to a liberal policy. Be it Chateaubriand or Biguen, we may expect that their first step will be to endeavor to place France at the head of a constitutional league in her relations with Germany, Spain, and perhaps Italy, and to realise, as far as practice will admit, the amiable theory of Henry IV. What would be our feelings, if in such an event we again showed ourselves *toto divisos orbe Britannos*, with a continental system arranged against us, as much more formidable than that of Napoleon, as the resistance opposed to freedom is more hazardous and arduous than that opposed to despotism. France might avail herself of the compensation-scheme, and exchange Lombardy, when rescued from Austria, for the Netherlands. How much is to be feared if we do not participate—I might say, lead the way—in establishing the system of representative monarchies throughout Europe, which appears to be better adapted to States which have been gradually raised to civilisation than the republic forms of America, a country where all was to be begun anew. The path of happiness and true glory is open to us. At this moment we are invited to an union with France by the actual sympathy of the public feeling in that country. The late elections have strongly evinced that sympathy, and will guarantee its future co-operation with us in the cheerful efforts to be made in the cause of civilisation.

The universal manifestation of regret in all the French public prints on the death of our late Prime Minister, show that the return of our policy to the genuine principles of universal benevolence was hailed with enthusiasm ; and this last observation may apply to all the other States of Europe where the press is an organ of public opinion. Other circumstances of minor importance appear to exhibit a return of the kindly disposition which is ever natural between those who are sufficiently informed to perceive the intimate connexion of their own interest with that of others to taste ; for English

literature is now prevalent in France, an English theatre is encouraged, and harmony of feeling may, it is obvious, be produced by the interchange of ideas thus established between the two countries.

It would exceed the limits of this letter, were I to attempt to exhibit to your Lordship the lengthening chain of reciprocal benefits which would confirm our union with the constitutional Governments, were the principle once adopted. In addressing a firm supporter of the liberal measures adopted with regard to foreign trade, I need not expatiate on the benefits to be derived to England, France, and the Netherlands in particular, from a more unrestrained intercourse between these three countries. Many constitutional improvements may also yet be derived from the original source of constitutional liberty by the two latter kingdoms, whilst they offer to us in the arrangement effected between religions clashing with that of the State, and in some points of civil policy, a possibility of improvement in our own institutions well deserving our serious attention. The cessation of the desolating wars carried on between France and this country for so many centuries under the influence of a blind jealousy on the part of the people, and an equally blind ambition on that of the rulers of the one or the other of the two countries, is in itself a blessing which will be also duly appreciated, not only by the Netherlands, the usual theatre of those sanguinary contests, but also by the rest of Europe, perpetually exposed to being embroiled in the quarrel.

All subsequent and minor considerations, however, form but a part of the one great object to be kept in view—the extension of the civilising principle. Nor do I hesitate to allow, that whatever has been harshly spoken of the States suffering under despotic forms of government, has been spoken more in sorrow than in anger. The prospect of a possible recurrence of that dark night which the invading Goths threw in their harpy flight from the north over the fairest portion of Europe, may have given the force of indignation to the deprecating anxiety of prudence. The reigns of Theodoric in Italy, and the Gothic monarchs in Spain, would be sufficient to satisfy the least inquisitive that the alleged barbarism of the conquerors was but comparative; and that comparison was instituted merely between the science and literature of the invaders and the invaded. An ingredient of civilisation which is of far more importance, the development of that part of moral principle which I have termed the civilising principle, was scarcely thought of. It is to this we must look in a comparison of the despotic and constitutional Governments; and the antipathy of the former to the latter is built on this difference alone. Yet, my Lord, I am too young to be destitute of enthusiasm; and I dare to hope for a period when the ex-

ertions of our country, which have already diffused and protected civilisation throughout the whole extent of the new world, may be hailed in the old with generous applause, and seconded by the ardor of surrounding nations, till the full tide of civilisation be poured over every part of the inhabited globe; and, traversing the vast empires of Austria and Russia, may meet with that current which already circulates around the southern part of the eastern continent, until despotism no longer knows where to find a resting-place.

That the Government over which you, my Lord, preside, may have the immortal honor of opening the career leading to such sublime results, is the sincere prayer of, my Lord, your Lordship's obedient humble servant,

AN ENGLISHMAN.

AN
INTRODUCTORY LECTURE
ON
POLITICAL ECONOMY,

DELIVERED BEFORE THE UNIVERSITY OF OXFORD,
ON THE 6th OF DECEMBER, 1826.

By NASSAU WILLIAM SENIOR,
OF MAGDALEN COLLEGE, OXFORD, A.M., PROFESSOR OF POLITICAL ECONOMY.

LONDON:—1827.

It is impossible to address such an assembly as I see before me without great diffidence and great anxiety; and I may, perhaps, plead more than the usual excuse for indulging in the egotism which is natural to an introductory lecture. If the science of Political Economy were in the situation in which, I trust, a very few years, and perhaps the exertions of some of those whom I am addressing, will place it; if its objects were clearly understood, its terms precisely defined, its general principles universally admitted; if it ranked in public estimation, as then it will rank, among the first of moral sciences in interest and in utility, I should feel, as I now feel, great diffidence in my own powers, and the necessity of relying very much on your candor and indulgence. But this is not the situation of the science. It is, at present, in that state of imperfect development, which, though most attractive to the student who has made some proficiency, throws the greatest difficulty in the way of a beginner, and, consequently, of a teacher, and offers the fairest scope to the objections of an idle or an interested adversary.

When I consider how numerous those adversaries are, and how widely diffused are the prejudices which they excite and propagate, all apprehension for myself is lost in the fear that the failures of the professor may be imputed to his subject, and that the vague abstractions, the details, the truisms, the obscurities, and the inconsistencies which, with all my care, will, I have no doubt, be found in my lectures, may rather deter those among my hearers to whom the subject is new from proceeding in a study which, in my hands, may appear uninteresting, than lead them to prosecute it in the writings of the great masters of the science, and by patient meditation on the results of their own experience.

To prevent, as far as I am able, such a result, I shall devote
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this lecture to an attempt to explain the objects of Political Economy, and the inquiries through which they are to be effected ; and it will, I think, appear that the human faculties cannot be engaged in a pursuit more useful in its result, or more interesting in its progress.

If we compare the present situation of the people of England with that of their predecessors at the time of Cæsar's invasion ; if we contrast the warm and dry cottage of the present laborer, its chimney and glass windows, (luxuries not enjoyed by Cæsar himself,) the linen and woollen clothing of himself and his family, the steel, and glass and earthenware with which his table is furnished, the Asiatic and American ingredients of his food, and above all, his safety from personal injury, and his calm security that to-morrow will bring with it the comforts that have been enjoyed to-day ; —if, I repeat, we contrast all these sources of enjoyment with the dark and smoky burrows of the Brigantes, or the Cantii, their clothing of skins, their food confined to milk and flesh, and their constant exposure to famine and to violence, we shall be inclined to think those who are lowest in modern society richer than the chiefs of their rude predecessors. And if we consider that the same space of ground which afforded an uncertain subsistence to a hundred, or probably fewer, savages, now supports with ease more than a thousand laborers, and, perhaps, a hundred individuals beside, each consuming more commodities than the labor of a whole tribe of Ancient Britons could have produced or purchased, we may at first be led to doubt whether our ancestors enjoyed the same natural advantages as ourselves ; whether their sun was as warm, their soil as fertile, or their bodies as strong, as our own.

But let us substitute distance of space for distance of time ; and, instead of comparing the situations of the same country at different periods, compare different countries at the same period, and we shall find a still more striking discrepancy. The inhabitant of South America enjoys a soil and a climate, not superior merely to our own, but combining all the advantages of every climate and soil possessed by the remainder of the world. His valleys have all the exuberance of the tropics, and his mountain-plains unite the temperature of Europe to a fertility of which Europe offers no example. Nature collects for him, within the space of a morning's walk, the fruits and vegetables which she has elsewhere separated by thousands of miles. She has given him inexhaustible forests, has covered his plains with wild cattle and horses, filled his mountains with mineral treasures, and intersected all the eastern face of his country with rivers, to which our Rhine and Danube are merely brooks. But the possessor of these riches is poor and miserable. With all the materials

of clothing offered to him almost spontaneously, he is ill-clad; with the most productive of soils, he is ill-fed; though we are told that the labor of a week will there procure subsistence for a year, famines are of frequent occurrence; the hut of the Indian, and the residence of the landed proprietor are alike destitute of furniture and convenience; and South America, helpless and indigent with all her natural advantages, seems to rely for support and improvement on a very small portion of the surplus wealth of England.

It is impossible to consider these phenomena without feeling anxious to account for them; to discover whether they are occasioned by circumstances unsusceptible of investigation, or regulation, or by causes which can be ascertained, and may be within human control. To us, as Englishmen, it is of still deeper interest to inquire whether the causes of our superiority are still in operation, and whether their force is capable of being increased or diminished; whether England has run her full career of wealth and improvement, but stands safe where she is; or, whether to remain stationary is impossible; and it depends on her institutions and her habits, on her government and on her people, whether she shall recede or continue to advance.

The answer to all these questions must be sought in the science which teaches in what wealth consists,—by what agents it is produced,—and according to what laws it is distributed,—and what are the institutions and customs by which production may be facilitated and distribution regulated, so as to give the largest possible amount of wealth to each individual. And this science is Political Economy.

If my definition be correct, the science of Political Economy may be divided into two great branches,—the theoretic and the practical. The first, or theoretic branch, that which explains the nature, production, and distribution of wealth, will be found to rest on a very few general propositions, which are the result of observation, or consciousness; and which almost every man, as soon as he hears them, admits as familiar to his thoughts, or at least as included in his previous knowledge.

Its conclusions are also nearly as general as its premises;—those which relate to the nature and production of wealth are universally true: and, though those which relate to the distribution of wealth, are liable to be affected by peculiar institutions of particular countries,—in the cases, for instance, of slavery, corn-laws, or poor-laws,—the natural state of things can be laid down as the general rule, and the anomalies produced by particular disturbing causes can be afterwards accounted for.

The practical branch of the science, that of which the office is to ascertain what institutions are most favorable to wealth, is a far

more arduous study. Many of its premises, indeed, rest on the same evidence as those of the first branch; for they are the conclusions of that branch:—but it has many which depend on induction from phenomena, numerous, difficult of enumeration, and of which the real sequence often differs widely from the apparent one. The machinery of civilised society is worked by so many antagonist springs: the dislike of labor, the desire for immediate enjoyment, and the love of accumulation are so perpetually counteracting one another; and they produce such opposite conduct, not only in different individuals, but in whole masses of people, that we are liable to the greatest mistakes when we endeavor to assign motives to past conduct, or to predict the conduct which a new motive will produce.

For instance, the questions, Whether the poor-laws have had a tendency to diminish or increase the population of England? Whether the testamentary laws of France are favorable or unfavorable to the wealth of that country? Whether the wealth of England has been increased or diminished by her colonies? Whether tithes fall principally on the consumer or on the landlord? and many others, of which the facts seem to lie before our eyes, have been diligently and acutely investigated, and are still, perhaps, undecided.

And, if we are often unable to trace all the consequences of institutions with which we have been long familiar, how much more difficult must it be to predict the effects of measures which are still untried!

Inattention to the distinction between the practical and the theoretic branches of Political Economy, appears to me to have occasioned much of the difference of opinion which prevails as to the certainty of its conclusions. Those who assert that it approaches to the accuracy of logic or mechanics, must either have confined their attention to the theoretic branch, or have forgotten that the practical branch must sometimes draw its premises from particular facts, respecting particular climates, soils, and seasons; and must sometimes take into account the influence of every human passion and appetite, under every modification of government and knowledge.

On the other hand, the uncertainty which affects many of the investigations of Political Economists, has been rashly attributed to them all. Because from probable premises they have deduced only probable conclusions, it has been sometimes supposed that probability, and that of a low degree, is all they can attain.

I hope in the course of these lectures to prove the truth of my statement, that the theoretic branch of the science, that which treats of the nature, production and distribution of wealth,—is ca-

pable of all the certainty that can belong to any science, not founded exclusively on definitions; and I hope also to show that many conclusions, and those of the highest importance in the practical branch, rest so immediately on the conclusions of the theoretic branch, as to possess equal certainty and universality.

The slight sketch which I have given of the objects of the science, affords me a better opportunity than perhaps I shall have hereafter, of considering some objections that may be made, if not to the study itself, at least to the rank in which I have placed it.

The first is, that as the pursuit of wealth is one of the humblest of human occupations, far inferior to the pursuit of virtue, or of knowledge, or even of reputation; and as the possession of wealth is not necessarily joined—perhaps, it will be said, is not conducive—to happiness, a science of which the only subject is wealth, cannot claim to rank as the first, or nearly the first, of the moral sciences.

My answer is, first, that the pursuit of wealth, that is, the endeavor to accumulate the means of future subsistence and enjoyment, is, to the mass of mankind, the great source of moral improvement. When does a laborer become sober and industrious, attentive to his health and to his character?—as soon as he begins to save. No institution could be more beneficial to the morals of the lower orders, that is, to at least nine-tenths of the whole body of any people, than one which should increase their power and their wish to accumulate: none more mischievous than one which should diminish the motives and the means to save. If we have institutions eminently calculated to produce both the benefit and the mischief, how valuable must the science be that teaches us to discriminate between them, to extend the one, and to remove or diminish, or, at least, not to extend, the other!

I answer, in the second place, that it is perhaps true, that the wealth which enables one man to command the labor of hundreds or of thousands—such wealth as raised Chatsworth or Font-hill—may not be favorable to the happiness of its possessor; and, if this be so, Political Economy will best teach us to avoid creating or perpetuating institutions, which promote such inconvenient agglomerations. But that diffusion of wealth which alone entitles *a people* to be called rich; that state of society in which the productiveness of labor, and the mode in which it is applied, secure to the laboring-classes all the necessities and some of the conveniences of life, seems to be not merely conducive, but essential both to their morals and their happiness. This appears to me so self-evident, that I am almost ashamed of taking up your time by proving it. But, if proof be wanted, we have only to consider what are the effects on the human character of the opposite state

of society; a state in which the mass of the people is habitually confined to a bare subsistence, and, consequently, exposed from time to time, from the accidents of trade, or of the seasons, to absolute want. I will not dwell on the misery of those on whom actual want does fall: it is too painful to be steadfastly contemplated, and forms only a small part of the evil. The great evil is the general feeling of insecurity: the fear which must beset almost every man, whose labor produces him only a subsistence, and who has no resource against contingencies, that at some period, how near he cannot tell, the want under which he has seen others sink may reach himself. The principal sources of happiness are the social affections; but (to use the words of a powerful writer, and a very accurate observer of human nature) "the man whose thoughts are perpetually harassed by the torment of immediate, or the dread of future want, loses the power of benevolent sympathy with his fellow-creatures; loses the virtuous feeling of a desire for their pleasures, and an aversion to their pains; rather, perhaps, hates their pleasures, as rendering the sense of his own misery more pungent; desires their pains, as rendering the sense of that misery the less. This is the explanation of the cruel and ferocious character which uniformly accompanies the hardships of savage life. Another result of suffering is, that it produces an extraordinary greediness for immediate gratification; a violent propensity to seek compensation from any sensual indulgence which is within the reach. It is a consequence that the poorest individuals in civilised society are the most intemperate; the least capable of denying themselves any pleasure, however hurtful, which they can command. Hence their passion for intoxicating liquors; and hence, because he is still more wretched, the still more furious passion for them in the savage."¹

It is scarcely necessary to add that such a population must be grossly ignorant. The desire for knowledge is one of the last results of refinement; it requires, in general, to have been implanted in the mind during childhood; and it is absurd to suppose that persons thus situated would have the power or the will to devote much to the education of their children. A further consequence is the absence of all real religion: for the religion of the grossly ignorant, if they have any, scarcely ever amounts to more than a debasing superstition.

It is impossible that, under such circumstances, there should be an effectual administration of justice. The law has few terrors for a man who has nothing to lose. Its efficiency, too, is almost altogether dependent on the support it receives from the general

¹ History of British India, b. 6. c. 6.

body of the people. Among a very poor, and consequently, a very ignorant people, sympathy is almost always in favor of the offender: his flight is favored, his lurking-places are concealed, the witnesses against him are intimidated, and he escapes even after he has become the subject of prosecution; but more frequently he escapes even prosecution. Outrages are committed in the presence of hundreds, and we are told that not one of the perpetrators can be identified; that is, though they are well known, the witnesses conceal their knowledge.

When such is the character of the bulk of the community, there can be no security for the persons or property of any of its members. The three great restraints from crime,—religion, good feeling, and law, have, as we have seen, little force; while the great source of crime, the passion for immediate enjoyment, acquires additional strength.

I do not expect to be accused of having exaggerated the wretchedness of a country in which the bulk of the people are subject to the pressure or the apprehension of want. But I may be told, perhaps, that I have supposed an extreme case, a danger to which no civilised society is exposed, to provide against which is a waste of labor.

My answer is, first, that the miserable situation which I have described has, up to the present time, been that of many of the inhabitants of every densely-peopled country.

Mr. Mylne has shown (*Life Annuities*, vol. ii. p. 390,) that in England any material reduction in the price of wheat is almost always accompanied by a decrease in the number of burials; and that any material rise in the price is generally attended by a corresponding increase in the burials. This proves that there must be almost always in this country a considerable number of persons just vibrating between the possession and the want of mere food; whom an inclination of the price, one way or the other, saves or destroys. In London alone, when London was far less populous than it is now, Dr. Colquhoun estimated that there were never less than 20,000 persons who rose in the morning ignorant what means—whether casual employment, pillage, or mendicancy—would give them food for the day, or shelter for the ensuing night.

While I am now speaking, there are thousands and tens of thousands of families of hand weavers, in Lancashire and Yorkshire, who are working fourteen hours a day for what will scarcely support animal existence. And those are, perhaps, still more numerous who cannot obtain regular employment even on such terms as these, but are eking out the deficiency of their wages by the gradual sale of their little stock of clothes and furniture. Unless we are prepared to maintain that there can be no measures by

which the number of persons so situated can be increased or diminished, we are, at least, bound to inquire into the pretensions of the science which professes to point out those measures.

But it is not true that the extreme case of general pauperism, which I have described, is one to which no civilised society can be exposed. A large portion of the British Empire has been sinking into it during the last thirty years, and apparently with increased rapidity.

The House of Commons' Committee, appointed in the beginning of this year to consider the expediency of encouraging emigration from the United Kingdom, commence their Report by stating, as among the results of the evidence collected by them, "That there are extensive districts in Ireland, and districts in England and Scotland, where the population is at the present moment redundant; in other words, where there exists a very considerable proportion of able-bodied and active laborers, beyond that number to which any existing demand for labor can afford employment. That the effect of this redundancy is not only to reduce a part of this population to a great degree of destitution and misery, but also to deteriorate the general condition of the laboring-classes. That by its producing a supply of labor in excess, as compared with the demand, the wages of labor are necessarily reduced to a minimum, which is utterly insufficient to supply that population with those means of support and subsistence which are necessary to secure a healthy and satisfactory condition of the community. That in England this redundant population has been, in part, supported by a parochial rate, which, according to the reports and evidence of former committees specially appointed to consider the subject, threatens, in its extreme tendency, to absorb the whole rental of the country. And that in Ireland, where no such parochial rate exists by law, and where the redundancy is found in a still greater degree, a considerable part of the population is dependent for the means of support on the precarious source of charity, or is *compelled* to resort to habits of plunder and spoliation for the actual means of subsistence."

If we turn to the Minutes, we shall find from Mr. Bodkin's evidence (p. 214) that the hope of being employed by the Mendicity Society in breaking stones at six-pence or eight-pence per day, a work from which English paupers absconded, produced such an emigration from the south of Ireland to London, that the Society were forced to make a distinction between the applicants, and to refuse the employment to any who had not resided in this country for a certain time. We shall find Mr. Becher stating (p. 199) that "almost any change of situation would be for the benefit of the lower class in Munster:"—the Bishop of Limerick (p. 144),

that "the existing state of things is truly frightful." Mr. Gabbitt (p. 127) describes the county of Limerick as "the richest" (that is, I apprehend, the most fertile) "country in the world." Yet he states that the *best* description of laborers, those *best* able to support a family, as soon as they can amass a sum sufficient to pay their passage, emigrate to America, "and leave all their children and families behind them, a load on the bounty of the public." What must be the general misery of this country, so highly-favored by nature, when the *least* miserable part of its laboring population are eager to escape from their wretchedness, not merely by an eternal separation from all those connected with them by nature and affection, but by leaving them "a load on the bounty of the public," that is, to be supported by the charity of those who are too poor to emigrate? I am not sure whether I should not infer as intense suffering from Mr. Gabbitt's facts, as from the Bishop of Limerick's description of a dispossessed tenantry (p. 144), "without house, without food, without money, starving, and almost dying in the ditches."

Happily there is no *general* misery in England like this; but even England, rich and prosperous, and well governed as she is beyond any other European community, is not, perhaps, quite beyond the sphere of a similar calamity. We have among our institutions, and our modes of acting, some which are eminently calculated to do more than merely retard our advancement.

I confidently hope that we shall not long have to contend with them; but my hope is founded solely on the expectation that the diffusion of sound principles of Political Economy will aid our enlightened ministers with the whole strength of public opinion, and enable them to conquer the ignorance, prejudice, and individual interest which have always been opposed to every improvement.

There are, however, many reasoners, or rather talkers and writers, who admit the importance of the subject, but distrust the conclusions of the science; and profess to be guided on all questions relating to it, not by the theories of political economists, but by the opinions of practical men, or their own common-sense.

By practical men are meant, I suppose, those who have had experience in the matters which Political Economy considers. But who has not had that experience? The revenue of all men must consist of rent, profit, or wages. They must all exchange it for commodities or services. They all know, or have equally the means of knowing, for it can be discovered only by reflection, why they set a high value on some things, a low one on others, and disregard a third class.

An academical body is not very commercial, but, probably, there

is no one present who does not make twenty exchanges every week. If this experience is not enough to enable him to understand how the human passions act in buying and selling, he would be unable to comprehend it, though his transactions equalled in number and amount those of Baring or of Rothschild. It is, in fact, as impossible to avoid being a practical economist, as to avoid being a practical logician. The man who, beside the daily traffic in which we are all necessarily engaged, has devoted himself to any peculiar branch of trade or manufacture, (and such is the general character of those who are called practical men,) is much more likely to have his general views contracted than extended by it. He is apt to suppose that what he thinks useful and hurtful to himself, must be useful and hurtful to the community. Thus, the poor working-clothiers of Stroud attributed the public distress to the introduction of machinery in the manufacture of cloth; and Mr. Webb Hall calculated that a fall in the price of corn of 10s. a quarter would be a loss to the whole country of £20,000,000 a year.

To those who profess to be guided solely by common-sense, I will quote, in the first place, Dr. Whately's admirable illustration of the nature of common-sense, and of the absurdity of trusting to it where a better guide is to be found:—

“By common-sense,” says Dr. Whately, “is meant, I apprehend, (when the term is used with any distinct meaning,) an exercise of the judgment unaided by any art or system of rules; such as we must necessarily employ in numberless cases of daily occurrence; in which, having no established principles to guide us,—no line of procedure, as it were, distinctly chalked out,—we must needs act on the best extemporaneous conjectures we can form. He who is eminently skilful in doing this, is said to possess a superior degree of common-sense. But that common-sense is only our *second-best* guide—that the rules of art, if judiciously framed, are always desirable when they can be had, is an assertion, for the truth of which I may appeal to the testimony of mankind in general; which is so much the more valuable, inasmuch as it may be accounted the testimony of adversaries. For the generality have a strong predilection in favor of common-sense, except in those points in which they respectively possess the knowledge of a system of rules; but in these points they deride any one who trusts to unaided common-sense. A sailor, *e. g.*, will perhaps despise the pretensions of medical men, and prefer treating a disease by common-sense: but he would ridicule the proposal of navigating a ship by common-sense, without regard to the maxims of nautical art. A physician, again, will perhaps contemn Systems of Political Economy, of Logic, or Metaphysics, and insist

on the superior wisdom of trusting to common-sense in such matters; but he would never approve of trusting to common-sense in the treatment of diseases. Neither, again, would the architect recommend a reliance on common-sense alone in building, nor the musician in music, to the neglect of those systems of rules which in their respective arts have been deduced from scientific reasoning aided by experience: and the induction might be extended to every department of practice. Since, therefore, each gives the preference to unassisted common-sense, only in those cases where he himself has nothing else to trust to, and invariably resorts to the rules of art, wherever he possesses the knowledge of them, it is plain that mankind universally bear their testimony, though unconsciously and often unwillingly, to the preferableness of systematic knowledge to conjectural judgments."¹

Dr. Whately's reasoning is unanswerable; but we shall be far too favorable to most of those who profess, and perhaps sincerely, to rely on common-sense in matters of Political Economy, if we believe that they actually do so.

Political Economy was an art long before it was a science; and neither those who first practised it, nor their advisers, were filled by knowledge, honesty, or singleness of purpose, to desire right ends, or to employ proper means.

Those who first practised it in modern Europe, (and our maxims of Political Economy have no earlier origin,) those who first endeavored to employ the powers of government in influencing the production, distribution, and consumption of wealth, were semi-barbarous sovereigns, considering their subjects not as a trust, but a property, and desirous only to turn that property to the best and readiest account.

Their advisers were landholders, merchants, and manufacturers, each anxious only for his own immediate gain, and caring little how the rest of society might be affected by the monopoly he extorted. From the mode in which these persons pursued what they thought their individual interests, aided by national jealousy, and by the ambiguities of language, and unchecked by any sound principles, arose that unhappy compound of theoretic and practical error, the "Mercantile System." I think I may take it for granted, that all those whom I am addressing are acquainted with the outlines of that system; and I must necessarily consider it somewhat at large in my next lectures. I will say no more of it, therefore, in this place, than that it was founded in a belief, that the wealth of a country consists solely of gold and silver, and is to be retained and increased by prohibiting the exportation of money,

¹ Preface to the Elements of Logic.

and by giving bounties on the exportation, and imposing restrictions on the importation of other commodities, in the hope of producing a trade in which, the imports being always of less value than the exports, the balance may be paid in money: a conduct, as wise as that of a tradesman who should part with his goods only for money; and instead of employing their price in paying his workmen's wages, or replacing his stock, should keep it for ever in his till.

As is the case, however, with every long-standing abuse, so many persons are immediately interested in supporting particular parts of the system, and the theory on which it is founded so long commanded universal assent, that ninety-nine men out of a hundred imbibe it with their earliest education. Terms which imply the truth of the theory, and, consequently, the propriety of the practice, have even become a part of our language. A trade in which money is supposed to be received in exchange for goods, is called a trade with a *favorable* balance; duties imposed to give monopolies to particular classes of producers, are called *protecting* duties; applications of the public revenue, to divert capital and labor from their natural employment, are called *bounties*. The consequence of all this is, that men who fancy they are applying common-sense to questions of Political Economy, are often applying to them only common prejudice. Instead of opposing, as they fancy, experience to theory, they are opposing the theory of a barbarous age to the theory and experience of an enlightened one.

There never was a man of stronger common-sense, a man more fitted to draw accurate conclusions from few or doubtful premises, than Napoleon. He had an utter horror of Political Economy; the principles of which, he said, if an empire were built of granite, would grind it to powder. On such subjects he trusted to common-sense. And his common-sense was an undistinguishing acceptance of the whole theory of the mercantile system.

It appears, from his conversations at St. Helena, that he fully believed that the continent must be a loser by its commerce with England, and that it must be so on account of the excellence and cheapness of English commodities. These abominable qualities must, he thought, enable us, in the jargon of the theory, to undersell the continent in its own market, and ultimately produce its ruin, through that unfavorable balance of trade, in which, what is received is of greater value than what is given. He thought that he could put an end to this trade by his continental system; without doubt the principal object of that system was to ruin England; but he appears to have implicitly believed, that it was also a blessing to the continent. The murmurs of his subjects and allies he treated like the complaints of spoiled children, who do not know what is for their own good, and who, when experience has

made them wiser, will embrace from choice what they have submitted to from necessity. There can be no doubt, I think, that these opinions, and the obstinacy into which they led him, were the ultimate causes of his downfall.

But can they be said to have been founded on common-sense? If Napoleon had trusted to his own powerful sense, if he had not been misled by a theory as wild as it is generally received, could he have believed that the continent was injured by enjoying an advantageous market, and was injured precisely in the proportion in which that market was advantageous?

The length to which this lecture has extended prevents me from dwelling on the many other prejudices which profess to derive their sanction from the much-abused term "common-sense." I will only suggest, as instances, the common opinion that the unproductive consumption of opulent individuals and of governments, the mere waste of armies and of courts, is beneficial to the other members of society, because, to use the vague and unintelligible language of common conversation, "it promotes the circulation of money;" and the equally common error, that a fall in the price of subsistence, arising from its abundance, is injurious to the manufacturing-classes, because it diminishes the market for their commodities. These opinions, setting aside their error, are so paradoxical, that I cannot conceive a man with a mind so constituted as to admit them unhesitatingly if they were presented to him when perfectly unbiassed. But they are favorable to the interests, or to the supposed interests, of the most influential members of every community. They have been so long repeated, in so many shapes, and on so many occasions, that they have become "familiar in our ears as household words;" and there is not a more common mistake than to suppose, that because a proposition is trite it must be true.

In the early part of this lecture I stated that the theoretic branch of Political Economy—that which explains the nature, production, and distribution of wealth—would be found to rest on a few general propositions, the result of observation, or of consciousness. The propositions to which I alluded are these:—

Firstly. That wealth consists of all those things, and of those things only, which are transferable; which are limited in quantity; and which, directly or indirectly, produce pleasure or prevent pain: or, to use an equivalent expression, which are susceptible of exchange; (including under exchange, hire, as well as absolute purchase;) or, to use a third equivalent expression, which have value.

Secondly. That every person is desirous to obtain, with as

little sacrifice as possible, as much as possible of the articles of wealth.

Thirdly. That the powers of labor, and of the other instruments which produce wealth, may be indefinitely increased by using their products as the means of further production.

Fourthly. That, agricultural skill remaining the same, additional labor employed on the land within a given district produces a less proportionate return. And,

Fifthly. That the population of a given district is limited only by moral or physical evil, or by deficiency in the means of obtaining those articles of wealth, or, in other words, those necessities, decencies, and luxuries, which the habits of the individuals of each class of the inhabitants of that district lead them to require.

The second of these propositions is a matter of consciousness; the others are matter of observation. I shall devote my next lectures, and probably the whole of the present and the next year's course, to the illustration (for it can scarcely be said to require proof) of the second proposition, and to the proof and illustration of the others; and in my subsequent reasonings, I shall assume them all as data.

If these premises are true, I shall be right while I argue from them correctly: that I shall always succeed in doing so, on so abstract a subject, where the relations are so various, and the nomenclature is so defective, of course is not to be hoped; but happily I address an audience too acute to suffer my errors to pass undetected, and too friendly not to inform me of them.

I shall endeavor, in all my discussions, and particularly in the introductory ones, to make use of as few terms as possible which, from their vagueness or their technicality, require explanation, without previously defining them. The reasonings in Political Economy are, however, so mutually dependent, that it is seldom possible to define one term without introducing into the definition others equally obscure. The best course in a written treatise is that adopted by M. Say, who has affixed to his valuable work on Political Economy a list of definitions. But it is impossible to imitate his example in *viva-voce* lectures: for such a list is, in fact, an epitome of the theoretical branch of the science, which the attention of no listener could follow, as the beginning must be unintelligible without the end. Dr. Whately's kindness in permitting me to append to his logic a collection of economical definitions, has a little alleviated this difficulty. That work is probably in the hands of the greater part of my hearers; and, as most people begin reading a book by the Appendix, I think I may take it for granted that they have looked through the definitions in

question. I almost regret now, that I did not suggest in each place the definition which appeared to me the most convenient. In its present state, however, that collection will enable even those who are unacquainted with the outline of the science to form a general notion of the meaning of its principal terms, when I am forced, as must sometimes be the case, to use them without previous explanation.

Another difficulty, arising from the same source, is the necessity which will frequently arise of arguing from premises which have been simply assumed, as if they have been conceded. Thus, the whole reasoning of my next lectures will assume "that every person is desirous to obtain, with as little sacrifice as possible, as much as possible of the articles of wealth." I shall endeavor to avoid doing this tacitly, except where, as is perhaps the case with the propositions I have just stated, the assumed premise is self-evident. But expressly or tacitly, I shall be forced to do it continually.

LORD ROSSMORE'S

LETTER

ON

CATHOLIC EMANCIPATION.

LONDON:—1828.

SIR,

ON leaving London, I feel it a duty again to address the people of England, and to call their attention in the most solemn manner to the very peculiar, and I may say alarming, circumstances in which the whole kingdom (and especially that part of it in which I am most immediately interested) is placed.

I certainly should not again have obtruded myself on the British public, but as his Grace, the responsible Premier of the Crown, has declared in his place in Parliament on Thursday night, that it was not the intention of the Cabinet to propose any measure for the relief of the Catholics, I hope I am justified in making a second appeal, connected as I conceive their question to be with the tranquillity of Ireland.

The declaration of the Prime Minister is of the last importance, not only to Ireland but to England. It tells Ireland she is to remain a victim: it tells England that she must continue to feed the thousands of Irish who annually cast themselves on her shores: nay, more,—it tells the friends of civil and religious liberty everywhere what they have to expect,—whether Protestants or Catholics, what they are to expect—advocates of liberty or advocates of tranquillity, that the period of happiness is at all events postponed; that they have one cause and one opponent: who that opponent is, they can now no longer doubt.

I proved elsewhere, and that proof has not been refuted, or even denied, that England is most materially injured by the continuance of Ireland in her present condition. I wish now to do more—I wish to show that England has common cause with Ireland, to a greater extent than even her pacification or prosperity—that she has common cause with Ireland in preserving the laws and the liberties of the whole people inviolate.

It is a wise saying of my Lord Bacon, that “measures without men are dead images.” Had a measure of relief from the present

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Cabinet been offered to the Catholics or Dissenters, I should have reposed little confidence in it, knowing as I do the parties from whom it would have proceeded : at all events, I should have entertained less fears for the repeal of the test and corporation acts from the answer of the late highly-gifted Premier of England. I'll tell you why :—Although Mr. Canning might have created dissatisfaction in the dissenting bodies by the answer he gave them, and apparently, I admit, with cause, yet the inquiring mind will not be satisfied without entering dispassionately, a little beyond the mere act of dissent, and ask—is there no satisfactory reason why a mind like that of Mr. Canning should depart from his own general principles in the case of the Dissenters alone? Might not Mr. Canning have reasoned thus? Did the petition of the Dissenters incorporate the removal of disability from others? If granted, would it injure the claims of others? Would it secure the support of the Dissenters in favor of the claims of the Roman Catholics? Am I not justified in saying, that in the providence of his mind he was probably laying the foundation of a general code of freedom? Am I not bound to admit he had a right to suspect the Dissenters were looking to themselves alone, as they had then evinced no great disposition to take into consideration the unbearable wrongs of their Roman Catholic countrymen, and in which conclusion he felt himself fortified by the latter conduct of the Dissenters in the north of Ireland? Was he not justified in saying to himself, if I concede the wishes of the Dissenter separately, may I not weaken the common cause? And thus he naturally decided in his own mind—if I carry emancipation, I secure the repeal of the test and corporation acts; for if the former succeeds, the latter follows. But if the latter were granted first and separately, emancipation must be postponed, and Ireland may be sacrificed; for I could not possibly, while the parties do not appear to act together, succeed in both. What, then, is my inference from that? That this answer was intended to be merely temporary, and by no means committing Mr. Canning to a persistence in refusal; and that the answer would not have been given, had the Dissenters entered cordially into the common cause of all. I repeat it, he felt that under existing circumstances any encouragement held out by him would be premature, and might injure the great general cause which he had so much at heart, and of which the repeal of the test and corporation acts, and the removal of disability from Ireland, formed separate and component parts.

How can I for one moment suppose the mind which had unmasked its ruling principle, when no longer controlled by a power to which from habit or from necessity it had been forced to yield (and which, it seems to me, with all humility, the hand of Providence removed, to bring about its own great purposes, to smooth

the way for the introduction of a more benign system, calculated to shed its influence over the nations of the earth;)—how can I suppose a mind like his, at the moment he was interesting himself for the liberties of America, for the liberties of Portugal, for the liberalisation of Greece, for the removal of disabilities in Ireland, could descend to such an act of inconsistency as to proscribe the larger, influential, and most respectable dissenting bodies in our country? So far from being determined to deny the Dissenters their rights, it is my opinion Mr. Canning was determined to support them when the season arrived. What can be the objection to a union amongst brethren in exclusion, amounting by census to about 15,000,000, including Ireland, but not including the liberal Protestants, the best friends to the cause of liberality; and why should not Ireland be included, the main stay of the case, on whose wounds the tears of England are now fast dropping, with whom the plighted faith of Government has been broken, and as if her measure of misfortune was not sufficiently full, I fear her cause has been weakened by a facility of doing her injury,—I shall not say in what quarter?

I have long supported His Majesty's Government in Ireland—I would continue so to do, if the present evinced any wish to adopt the measures necessary for her peace. Of what consequence is it to me who is Minister, or who is not? I belong to no party. But when I find the old system is to be persevered in—when I find those in power, whose cradles have been rocked in the ascendancy school of Ireland, who have been fostered on the lap of that power—when I find one of them, after admitting the dreadful state Ireland is in, that the system tried has failed, that another should be tried—when I see him resume office, to persevere in the old system, with a characteristic coldness when she is in question—when that Minister owes his political consequence to a determined opposition to the measures I know can alone eventually tranquillise my country, how can I reconcile it to myself not to oppose by every legitimate means an Administration in which he fills so ostensible a situation? Every day proves to me how little the question of Ireland is understood. A says, in a certain house, B threatened us in unbecoming language, and therefore I'll not accede to a great imperial question, on which the properties, peace, and happiness of millions depend. C, a great statesman, declares he'll exclude a whole nation, "because a few Roman Catholics he alleges are intemperate." I am a Protestant, and I should be glad to be informed what is the intemperance of a Roman Catholic to me. Why should I be debarred from my right to return a Roman Catholic to Parliament if I chose to vote for him? Why should my political ineligibility arise out of his being ineligible, contrary to the compact ratified between two nations? Why should

I be debarred from living in peace and quietness? Why should I be debarred from getting the same price for my lands as I would if my country was tranquil? Because a Roman Catholic has made use of intemperate language. A fine statesman-like argument truly! "No, no," says the public voice, "that can't be—another reason is assigned for your systematic opposition."

What hopes, then, has Ireland of a shadow of peace or rest? Already we hear from the tribunal to which she appeals the cold refusal. Before whom has her cause to appear? Before those who have received their political education in the Castle of Dublin, and whose early march was in the train of the ascendancy power. I repeat again, every day convinces me more and more how little the question of Ireland is understood. The interest of the Protestant is totally forgotten. If any Catholic was to tell me—"Oh, this is a question you have nothing to do with; it's a Catholic question entirely:" I would answer, "By your leave, good Sir, it's my country as much as yours; I have no property any where else: my ancestors have lived here for years; I and my children live here, and I am interested as well as you in this tremendous question. I'll tell you more—I'll make common cause with you in it; and if the Minister, contrary to the plighted faith of his Government, was to attempt to re-enact the penal code, I'd join you in opposing him." Why am I so adverse to this ascendancy power, and what is it?

I know it well, for I was brought up under its shade.

It is the evil genius of Ireland, whose principle it is to govern her by the sword.

She sits intrenched in the Castle of Dublin—the Acropolis of corruption. There she held her court, not to distribute equal law, but to instruct the youthful English senator in the art of governing poor Ireland by the sword. Hence our misfortunes. (There are five at least of those statesmen in the present Administration.) The early poison is sucked in—ascendancy principle takes root—prejudice prevails, and bigotry covers all the land. Here she makes Protestantism a good trade—monopoly the law—remonstrance against it disloyalty. She would have made the illustrious name of Grattan a term of reproach. She drove the immortal Abercrombie from our shore—the bravest of the brave—because his benevolent mind would not consent to carry free-quarter and desolation into our fields, and become accessory to revive again the day of Elizabeth, marked in the gloomy pages of our history, and recorded in the lamentations of Sir John Davis.

I heard the parting words of Abercrombie; I was often with him; I shall never forget them: there are those alive who heard the same—"I will never draw my sword on Paddy." He

dropped the prophetic tear of mourning on our fate; and his departure from Ireland was more creditable to him than the victory which closed his honorable career.

From such a subject, Englishmen, allow me to move the scene, and present to you another, with which all that is dear to you as freemen is connected. I saw it first at Cintra. And it now advances on me "in such a questionable shape" that I will look it in the face.

Cæsar fought for Rome, and overthrew her liberty with the legions he led on to conquest in her cause—an awful and a memorable lesson: Cæsar, as conspicuous for clemency as for success in arms. But there is a fascination attendant on long command, that perhaps unfits a man for the subordination necessary in times of peace. By this event, a principle was recognised which had been introduced by Sylla. Hence followed a military Government, and all the misfortunes attendant on military rule. The late war, when England fought for her existence, authorised a departure from the jealous provisions of our ancestors; our armies were increased to an amount never before known, and with it the influence of the Minister. A peace establishment succeeded, but neither the Ministry nor the army were included in any retrenchment that followed; and we feel, at this very day, the melancholy consequences in the assumption of a power (for it's nothing else) hitherto unheard of in Britain, in the person of the Commander of our armies—of him who had so often led them on to conquest, not only in defence of our liberties, but of those of the civilised world, and after dictating his own terms, filling two situations incompatible with the spirit of the Constitution. But the Duke of Wellington, like Cæsar, has passed the Rubicon. There is something in uncontrolled power that knows not how to recede; the principle is to be established or not. Far be it from me to suppose, that any act will take place on the part of his Grace, or any of His Majesty's present Ministers, to overturn the liberties of these realms, or intentionally to injure them; but if the principle becomes once recognised, the gulf is opened for any future despot to hurl the Constitution into an abyss—and where will Britain find a Curtius to close it up? Britons, this is a power that can be no longer trifled with. Formerly, Administrations depended for their existence on the majority of the people's voice: now they depend on the Lords. Here is the cancer with which the Union with Ireland has infected England. Her fibres imperceptibly advancing have now taken root; and if not in time eradicated, will extend their ramifications and overspread the fair face of the Constitution. Here is one of the deadly symptoms of the measure which properly executed would have given security to the parties, but,

insidiously contrived and jesuitically effected, has by bad faith destroyed the social compact. The Minister of that day, to carry the principles of the Union, strengthened himself in the Lords by the introduction of Irish Bishops and of representative Peers, who were notoriously returned by him, to counteract the voice of the people in their Commons House. So long as the Duke of Wellington is First Lord of the Treasury, so long will he be virtually Commander-in-chief of the British Armies, with the disposal of all appointments to civil situations under Government, as well as the whole patronage of the Church. This is a monstrous power, far exceeding that of the Sovereign. Any attempt of his Grace to get rid of the responsibility by appointing a military friend or friends will avail him but little; such appointments being in reality nothing more than aides-de-camp to his Grace. How could our armies be better commanded,—how could the vessel of the state under such circumstances be worse guided,—than by the Duke of Wellington? What kind of power is this? People of England, hesitate one moment, and the principle becomes for ever recognised by which the liberty of your country may be hereafter overthrown. Lose not one moment. I call on you not to lose one moment. Resist the establishment of this power: its next inroad may be on the press. Witness the late attempt in France. Are not all the Powers in Europe confederated in secret league? Petition from John o’Groat’s House to the Land’s-end. Petition, I call on you to petition, by the memory of your ancestors, by the duty you owe to yourselves, your posterity, and your country. Petition, before this “self-condemned” and inconsistent power has time to concentrate its strength, and this Administration will vanish into air. For (in the words of one of our most eminent statesmen) “no complaisance to our court, or to our age, can make us believe nature to be so changed, but that public liberty will be among us, as among our ancestors, obnoxious to some person or other; and that opportunities will not be furnished, for attempting at least some alterations to the prejudice of our constitution; that these attempts will naturally vary in their mode according to times and circumstances: for ambition, though it has ever the same general views, has not at all times the same means, nor the same particular objects.”

Hatchett’s Hotel, Feb. 3.

ROSSMORE.

ANALYSIS
OF THE
CHARACTER OF NAPOLEON BONAPARTE,

SUGGESTED BY THE PUBLICATION OF
SCOTT'S LIFE OF NAPOLEON.

By **W. E. CHANNING, LL.D.**

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THE Life of Napoleon Bonaparte by Sir Walter Scott has been anticipated with an eagerness, proportioned to the unrivalled power of the author, and to the wonderful endowments and fortunes of the hero. That the general expectation has been satisfied, we cannot affirm. But few will deny, that the writer has given us a monument of his great talents. The rapidity with which such a work has been thrown off astonishes us. We think, however, that the author owed to himself and to the public a more deliberate execution of this important undertaking. He should either have abandoned it, or have bestowed on it the long and patient labor which it required. The marks of negligence and haste, which are spread through the work, are serious blemishes, perhaps inexpiable defects. It wants compression and selection throughout. Many passages are encumbered with verbiage. Many thoughts are weakened by useless expansion and worse than useless repetition. Comparisons are accumulated to excess; and whilst many are exquisite, perhaps as many are trite and unworthy of history. The remarks are generally just, but obvious, and we fear we must add, often superficial. We state these defects plainly, that we may express the more freely our admiration of the talents which have executed so rapidly a work so extensive and various, so rich in information, so fresh and vivid in description, and furnishing such abundant specimens of a free, graceful, and vigorous style.

The work has the great merit of impartiality. It is probably inaccurate in many of its details, but singularly free from prejudice and passion. Not a few, who considered that the author was both a Briton and a friend of the principles and policy of Pitt, were expecting from his pen a discolored delineation of the implacable

foe of England and of that great minister. But the rectitude of his mind, and his reverence for historical truth, have effectually preserved him from abusing the great power, conferred on him by his talents, over public opinion. We think that his laudable fear of wronging the enemy of his country, joined to an admiration of the dazzling qualities of Napoleon, has led him to soften unduly the crimes of his hero, and to give more favorable impressions than truth will warrant.

But enough of the author, who needs not our praise, and can suffer little by our censure. Our concern is with his subject. A just estimate of the late Emperor of France seems to us important. That extraordinary man, having operated on the world with unprecedented power during his life, is now influencing it by his character. That character, we apprehend, is not viewed as it should be. The kind of admiration which it inspires, even in free countries, is a bad omen. The greatest crime against society, that of spoiling it of its rights and loading it with chains, still fails to move that deep abhorrence which is its due; and which, if really felt, would fix on the usurper a brand of indelible infamy. Regarding freedom as the chief interest of human nature, as essential to its intellectual, moral, and religious progress, we look on men, who have signalled themselves by their hostility to it, with an indignation at once stern and sorrowful, which no glare of successful war, and no admiration of the crowd, can induce us to suppress. We mean then to speak freely of Napoleon. But if we know ourselves, we could on no account utter one unjust reproach. We speak the more freely, because conscious of exemption from every feeling like animosity. We war not with the dead. We would resist only what we deem the pernicious influence of the dead. We would devote ourselves to the cause of freedom and humanity—a cause perpetually betrayed by the admiration lavished on prosperous crime and all-grasping ambition. Our great topic will be the Character of Napoleon; and with this we shall naturally intersperse reflections on the great interests which he perpetually influenced.

We begin with observing, that it is an act of justice to Bonaparte to remember, that he grew up under disastrous influences, in a troubled day, when men's minds were convulsed, old institutions overthrown, old opinions shaken, old restraints snapped asunder; when the authority of religion was spurned, and youth abandoned to unwonted license; when the imagination was made feverish by visions of indistinct good, and the passions swelled by the sympathy of millions to a resistless torrent. A more dangerous school for the character cannot well be conceived. That All-seeing Being, who knows the trials of his creatures and the secrets of the heart,

can alone judge to what degree crimes are extenuated by circumstances so inauspicious. This we must remember in reviewing the history of men, who were exposed to trials unknown to ourselves. But because the turpitude of an evil agent is diminished by infelicities of education or condition, we must not therefore confound the immutable distinctions of right and wrong, and withhold our reprobation from atrocities which have spread misery and slavery far and wide.

It is also due to Napoleon to observe, that there has always existed, and still exists, a mournful obtuseness of moral feeling in regard to the crimes of military and political life. The wrongdoing of public men on a large scale, has never drawn on them that sincere, hearty abhorrence which visits private vice. Nations have seemed to court aggression and bondage, by their stupid, insane admiration of successful tyrants. The wrongs, from which men have suffered most, in body and mind, are yet unpunished. True, Christianity has put into our lips censures on the aspiring and the usurping. But these reproaches are as yet little more than sounds, and unmeaning common-places. They are repeated for form's sake. When we read or hear them, we feel that they want depth and strength. They are not inward, solemn, burning convictions, breaking from the indignant soul with a tone of reality, before which guilt would cower. The true moral feeling in regard to the crimes of public men is almost to be created. We believe, then, that such a character as Bonaparte's, is formed with very little consciousness of its turpitude; and society, which contributes so much to its growth, is responsible for its existence, and merits in part the misery which it spreads.

Of the early influences under which Bonaparte was formed, we know little. He was educated in a military school; and this, we apprehend, is not an institution to form much delicacy, or independence of moral feeling: for the young soldier is taught, as his first duty, to obey his superior without consulting his conscience; to take human life at another's bidding; to perform that deed, which above all others requires deliberate conviction, without a moment's inquiry as to its justice, and to place himself a passive instrument in hands, which, as all history teaches, often reek with blood causelessly shed.

His first political association was with the Jacobins, the most sanguinary of all the factions which raged in France, and whose sway is emphatically called "the reign of terror." The service which secured his command in Italy, was the turning of his artillery on the people, who, however dangerous when acting as a mob, happened in the present case to understand their rights, and were directing their violence against manifest usurpation.

His first campaign was in Italy, and we have still a vivid recollection of the almost rapturous admiration with which we followed his first triumphs ; for then we were simple enough to regard him as the chosen guardian of liberty. His peculiar tactics was not then understood ; the secret of his success had not reached us ; and his rapid victories stimulated the imagination to invest him with the mysterious powers of a hero of romance. We confess that we cannot now read the history of his Italian wars without a quickened movement in the veins. The rapidity of his conceptions ; the inexhaustibleness of his invention ; the energy of his will ; the decision which suffered not a moment's pause between the purpose and its execution ; the presence of mind, which, amidst sudden reverses and on the brink of ruin, devised the means of safety and success : these commanding attributes, added to a courage, which, however suspected afterwards, never faltered then, compel us to bestow, what indeed we have no desire to withhold, the admiration which is due to superior power.

Let not the friends of peace be offended. We have said, and we repeat it, that we have no desire to withhold our admiration from the energies which war often awakens. Great powers, even in their perversion, attest a glorious nature ; and we may feel their grandeur, whilst we condemn, with our whole strength of moral feeling, the evil passions by which they are depraved. We are willing to grant that war, abhor it as we may, often develops and places in strong light, a force of intellect and purpose, which raises our conceptions of the human soul. There is perhaps no moment in life in which the mind is brought into such intense action, in which the will is so strenuous, and in which irrepressible excitement is so tempered with self-possession, as in the hour of battle. Still the greatness of the warrior is poor and low compared with the magnanimity of virtue. It vanishes before the greatness of principle. The martyr to humanity, to freedom, or religion ; the unshrinking adherent of despised and deserted truth, who, alone, unsupported and scorned, with no crowd to infuse into him courage, no variety of objects to draw his thoughts from himself, no opportunity of effort or resistance to rouse and nourish energy, still yields himself calmly, resolutely, with invincible philanthropy, to bear prolonged and exquisite suffering, which one retracting word might remove : such a man is as superior to the warrior, as the tranquil and boundless heavens above us to the low earth we tread beneath our feet.

We have spoken of the energies of mind called forth by war. If we may be allowed a short digression, which however bears directly on our main subject, the merits of Napoleon, we would observe, that military talent, even of the highest order, is far from

holding the first place among intellectual endowments. It is one of the lower forms of genius; for it is not conversant with the highest and richest objects of thought. We grant that a mind which takes in a wide country at a glance, and understands almost by intuition the positions it affords for a successful campaign, is a comprehensive and vigorous one. The general, who disposes his forces so as to counteract a greater force; who supplies by skill, science, and genius, the want of numbers; who dives into the counsels of his enemy, and who gives unity, energy, and success to a vast sphere of operations, in the midst of casualties and obstructions which no wisdom could foresee, manifests great power. But still the chief work of a general is to apply physical force; to remove physical obstructions; to avail himself of physical aids and advantages; to act on matter; to overcome rivers, ramparts, mountains, and human muscles; and these are not the highest objects of mind, nor do they demand intelligence of the highest order; and accordingly nothing is more common than to find men, eminent in this department, who are almost wholly wanting in the noblest energies of the soul, in imagination and taste, in the capacity of enjoying works of genius, in large views of human nature, in the moral sciences, in the application of analysis and generalisation to the human mind and to society, and in original conceptions on the great subjects which have absorbed the most glorious understandings. The office of a great general does not differ widely from that of a great mechanician, whose business it is to frame new combinations of physical forces, to adapt them to new circumstances, and to remove new obstructions. Accordingly great generals, away from the camp, are commonly no greater men than the mechanician taken from his workshop. In conversation they are often dull. Works of profound thinking on general and great topics they cannot comprehend. The conqueror of Napoleon, the hero of Waterloo, undoubtedly possesses great military talents; but we have never heard of his eloquence in the senate, or of his sagacity in the cabinet; and we venture to say, that he will leave the world without adding one new thought on the great themes on which the genius of philosophy and legislature has meditated for ages. We will not go down for illustration to such men as Nelson; a man great on the deck, but debased by gross vices, and who never pretended to enlargement of intellect. To institute a comparison in point of talent and genius between such men and Milton, Bacon, and Shakspeare, is almost an insult to these illustrious names. Who can think of these truly great intelligences; of the range of their minds through heaven and earth; of their deep intuition into the soul; of their new and glowing combinations of thought; of the energy with which they grasped and subjected

to their main purpose, the infinite materials of illustration which nature and life afford; who can think of the forms of transcendent beauty and grandeur which they created, or which were rather emanations of their own minds; of the calm wisdom and fervid impetuous imagination which they conjoined; of the dominion which they have exerted over so many generations, and which time only extends and makes sure; of the voice of power, in which, though dead, they still speak to nations, and awaken intellect, sensibility, and genius, in both hemispheres; who can think of such men, and not feel the immense inferiority of the most gifted warrior, whose elements of thought are physical forces and physical obstructions, and whose employment is the combination of the lowest class of objects, on which a powerful mind can be employed?

We return to Napoleon. His splendid victories in Italy spread his name like lightning through the civilised world. Unhappily they emboldened him to those unprincipled and open aggressions, to the indulgence of that lawless, imperious spirit, which marked his after course, and kept pace with his growing power. In his victorious career, he soon came in contact with States, some of which, as Tuscany and Venice, had acknowledged the French Republic; whilst others, as Parma and Modena, had observed a strict neutrality. The old-fashioned laws of nations, under which such states would have found shelter, seemed never to have crossed the mind of the young victor. Not satisfied with violating the neutrality of all, he seized the port of Leghorn, and ruined the once flourishing commerce of Tuscany; and having exacted heavy tribute from Parma and Modena, he compelled these powers to surrender, what had hitherto been held sacred in the utmost extremities of war, some of their choicest pictures, the chief ornaments of their capitals. We are sometimes told of the good done by Napoleon to Italy. But we have heard his name pronounced as indignantly there as here. An Italian cannot forgive him for robbing that country of its noblest works of art, its dearest treasures and glories, which had made it a land of pilgrimage to men of taste and genius from the whole civilised world, and which had upheld and solaced its pride under conquest and humiliation. From this use of power in the very dawn of his fortunes, it might easily have been foretold what part he would act in the stormy day which was approaching, when the sceptre of France and Europe was to be offered to any strong hand, which should be daring enough to grasp it.

Next to Italy, Egypt became the stage for the display of Napoleon; Egypt, a province of the Grand Signior, with whom France was in profound peace, and who, according to the long established

relations of Europe, was her natural ally. It would seem, that this expedition was Bonaparte's own project. His motives are not very distinctly stated by his biographer. We doubt not that his great aim was conspicuousness. He chose a theatre where all eyes could be turned on him. He saw that the time for usurpation had not yet come in France. To use his own language, "the fruit was not yet ripe." He wanted a field of action which would draw on him the gaze of the world, and from which he might return at the favorable moment for the prosecution of his enterprises at home. At the same time he undoubtedly admitted into his mind, which success had already intoxicated, some vague wild hope of making an impression on the Eastern world, which might place its destinies at his command, and give him a throne more enviable than Europe could bestow. His course in the East exhibited the same lawlessness, the same contempt of all restraints on his power, which we have already noted. No means, which promised success, were thought the worse for their guilt. It was not enough for him to boast of his triumphs over the cross, or to profess Mahometanism. He claimed inspiration, and a commission from God, and was anxious to join the character of prophet to that of hero. This was the beginning of the great weaknesses and errors into which he was betrayed by that spirit of self-exaggeration, which, under the influence of past success and of unbounded flattery, was already growing into a kind of insanity. In his own view he was fit to be a compeer with Mahomet. His greatness in his own eyes made him blind to the folly of urging his supernatural claims on the Turk, who contemned, even more than he abhorred, a Frank; and who would sooner have sold himself a slave to Christians, than have acknowledged a renegade Christian as a sharer of the glories of Mahomet. It was not enough for Bonaparte, on this expedition, to insult God, to show an impiety as foolish as it was daring. He proceeded to trample on the sentiments and dictates of humanity with equal hardihood. The massacre of Jaffa is universally known. Twelve hundred prisoners, and probably more, who had surrendered themselves to Napoleon, and were apparently admitted to quarter, were two days afterwards marched out of the fort, divided into small bodies, and then deliberately shot; and, in case the musket was not effectual, were dispatched by bayonets. This was an outrage, which cannot be sheltered by the laws and usages of war, barbarous as they are. It was the deed of a bandit and savage, and ought to be execrated by good men, who value and would preserve the mitigations which Christianity has infused into the conduct of national hostilities.

The next great event in Bonaparte's history was the usurpation of the supreme power of the state, and the establishment of military

despotism over France. On the particulars of this criminal act we have no desire to enlarge, nor are we anxious to ascertain whether our hero, on this occasion, lost his courage and self-possession, as he is reported to have done. We are more anxious to express our convictions of the turpitude of this outrage on liberty and justice. For this crime but one apology can be offered. Napoleon, it is said, seized the reins, when, had he let them slip, they would have fallen into other hands. He enslaved France at a moment, when, had he spared her, she would have found another tyrant. Admitting the truth of the plea, what is it but the reasoning of the highwayman, who robs and murders the traveller, because the booty was about to be seized by another hand, or because another dagger was ready to do the bloody deed? We are aware that the indignation, with which we regard this crime of Napoleon, will find a response in few breasts; for to the multitude a throne is a temptation which no virtue can be expected to withstand. But moral truth is immovable amidst the sophistry, ridicule, and abject reasonings of men, and the time will come when it will find a meet voice to give it utterance. Of all crimes against society, usurpation is the blackest. He who lifts a parricidal hand against his country's rights and freedom; who plants his foot on the necks of thirty millions of his fellow-creatures; who concentrates in his single hand the powers of a mighty empire, and who wields its powers, squanders its treasures, and pours forth its blood like water, to make other nations slaves and the world his prey: this man, as he unites all crimes in his sanguinary career, so he should be set apart by the human race for their unmingled and unmeasured abhorrence, and should bear on his guilty head a mark as opprobrious as that which the first murderer wore. "We cannot think with patience of one man fastening chains on a whole people, and subjecting millions to his single will; of whole regions overshadowed by the tyranny of a frail being like ourselves. In anguish of spirit we exclaim, How long will an abject world kiss the foot which tramples it? How long shall crime find shelter in its very aggravations and excess?"

Perhaps it may be said, that our indignation seems to light on Napoleon, not so much because he was a despot, as because he became a despot by usurpation; that we seem not to hate tyranny itself, so much as a particular mode of gaining it. We do indeed regard usurpation as a crime of peculiar blackness, especially when committed, as in the case of Napoleon, in the name of liberty. All despotism, however, whether usurped or hereditary, is our abhorrence. We regard it as the most grievous wrong and insult to the human race. But towards the hereditary despot we have more of compassion than indignation. Nursed and brought up in

delusion, worshipped from his cradle, never spoken to in the tone of fearless truth, taught to look on the great mass of his fellow-beings as an inferior race, and to regard despotism as a law of nature and a necessary element of social life; such a prince, whose education and condition almost deny him the possibility of acquiring healthy moral feeling and manly virtue, must not be judged severely. Still, in absolving the despot from much of the guilt which seems at first to attach to his unlawful and abused power, we do not the less account despotism a wrong and a curse. The time for its fall, we trust, is coming. It cannot fall too soon. It has long enough wrung from the laborer his hard earnings; long enough squandered a nation's wealth on its parasites and minions; long enough warred against the freedom of the mind, and arrested the progress of truth. It has filled dungeons enough with the brave and good, and shed enough of the blood of patriots. Let its end come. It cannot come too soon.

We have now followed Bonaparte to the moment of possessing himself of the supreme power. Those who were associated with him in subverting the government of the Directory, essayed to lay restraints on the First Consul, who was to take their place. But he indignantly repelled them. He held the sword, and with this, not only intimidated the selfish, but awed and silenced the patriotic, who saw too plainly that it could only be wrested from him by renewing the horrors of the revolution.—We now proceed to consider some of the means, by which he consolidated his power, and raised it into the imperial dignity. We consider these as much more important illustrations of his character than his successive campaigns, to which accordingly we shall give little attention.

One of his first measures for giving stability to his power was certainly a wise one, and was obviously dictated by his situation and character. Having seized the first dignity in the state by military force, and leaning on a devoted soldiery, he was under no necessity of binding himself to any of the parties which had distracted the country—a vassalage to which his domineering spirit could ill have stooped. Policy and his love of mastery pointed out to him an indiscriminate employment of the leading men of all parties; and not a few of these had become so selfish and desperate in the disastrous progress of the revolution, that they were ready to break up old connexions, and to divide the spoils of the Republic with a master. Accordingly he adopted a system of comprehension and lenity, from which even the emigrants were not excluded, and had the satisfaction of seeing almost the whole talent which the revolution had quickened, leagued in the execution of his plans. Under the able men whom he called to his aid, the finances and the war department, which had fallen into a confusion

that threatened ruin to the state, were soon restored to order, and means and forces provided for retrieving the recent defeats and disgraces of the French armies.

This leads us to mention another and most important and effectual means by which Napoleon secured and enlarged his power. We refer to the brilliant campaign immediately following his elevation to the Consulate, and which restored to France the ascendancy which she had lost during his absence. On his success at this juncture his future fortunes wholly depended. It was in this campaign that he proved himself the worthy rival of Hannibal. The energy which conducted an army with its cavalry, artillery, and supplies, across the Alps, by untried paths, which only the chamois hunter, born and bred amidst glaciers and everlasting snows, had trodden, gave the impression, which of all others he most desired to spread, of his superiority to nature, as well as to human opposition. This enterprise was in one view a fearful omen to Europe. It showed a power over the minds of his soldiers, the effects of which were not to be calculated. The conquest of St. Bernard by a French army was the boast of the nation; but a still more wonderful thing was the capacity of the general to inspire into that army the intense force, confidence, resolution, and patience, by which alone the work could be accomplished. The victory of Marengo, gained by one of the accidents of war in the moment of apparent defeat and ruin, secured to Bonaparte the dominion which he coveted. France, who, in her madness and folly, had placed her happiness in conquest, now felt that the glory of her arms was safe only in the hands of the First Consul; whilst the soldiery, who held the sceptre in their gift, became more thoroughly satisfied that triumph and spoils waited on his standard.

Another important and essential means of securing and building up his power, was the system of *espionage*, called the Police, which, under the Directory, had received a development worthy of those friends of freedom, but which was destined to be perfected by the wisdom of Napoleon. It would seem as if despotism, profiting by the experience of ages, had put forth her whole skill and resources in forming the French police, and had forged a weapon, never to be surpassed, for stifling the faintest breathings of disaffection, and chaining every free thought. This system of *espionage* (we are proud that we have no English word for the infernal machine) had indeed been used under all tyrannies. But it wanted the craft of Fouché, and the energy of Bonaparte, to disclose all its powers. In the language of our author, "it spread through all the ramifications of society;" that is, every man, of the least importance in the community, had the eye of a spy on him. He was watched

at home as well as abroad, in the boudoir and theatre, in the brothel and gaming-house ; and these last-named haunts furnished not a few ministers of the Argus-eyed police. There was an ear open through all France to catch the whispers of discontent ; a power of evil, which aimed to rival, in omnipresence and invisibleness, the benignant agency of the Deity. Of all instruments of tyranny, this is the most detestable : for it chills the freedom and warmth of social intercourse ; locks up the heart ; infects and darkens men's minds with mutual jealousies and fears ; and reduces to system a wary dissimulation, subversive of force and manliness of character. We find, however, some consolation in learning that tyrants are the prey of distrust, as well as the people over whom they set this cruel guard ; that tyrants cannot confide in their own spies, but must keep watch over the machinery which we have described, lest it recoil on themselves. Bonaparte at the head of an army is a dazzling spectacle ; but Bonaparte, heading a horde of spies, compelled to doubt and fear these base instruments of his power—compelled to divide them into bands, and to receive daily reports from each, so that by balancing them against each other and sifting their testimony, he might gather the truth ; Bonaparte, thus employed, is any thing but imposing. It requires no great elevation of thought to look down on such an occupation, with scorn ; and we see, in the anxiety and degradation which it involves, the beginning of that retribution which tyranny cannot escape.

Another means by which the First Consul protected his power can excite no wonder. That he should fetter the press, should banish or imprison refractory editors, should subject the journals and more important works of literature to jealous superintendence, these were things of course. Free writing and despotism are such implacable foes, that we hardly think of blaming a tyrant for keeping no terms with the press. He cannot do it. He might as reasonably choose a volcano for the foundation of his throne. Necessity is laid on him, unless he is in love with ruin, to check the bold and honest expression of thought. But the necessity is his own choice ; and let infamy be that man's portion, who seizes a power which he cannot sustain, but by dooming the mind, through a vast empire, to slavery, and by turning the press, that great organ of truth, into an instrument of public delusion and debasement.

We pass to another means of removing obstructions to his power and ambition, still worse than the last. We refer to the terror which he spread by his severities, just before assuming the imperial power. The murder of the Duke d'Enghien was justified by Napoleon as a method of striking fear into the Bourbons, who, as he said, were plotting his death. This may have been one motive ;

for we have reason to think that he was about that time threatened with assassination. But we believe still more, that he intended to awe into acquiescence the opposition, which, he knew, would be awakened in many breasts, by the prostration of the forms of the republic, and the open assumption of the imperial dignity. There were times when Bonaparte disclaimed the origination of the murder of the Duke d'Enghien. But no other could have originated it. It bears internal marks of its author. The boldness, decision, and overpowering rapidity of the crime, point unerringly to the soul where it was conceived. We believe that one great recommendation of this murder, was, that it would strike amazement and terror into France and Europe, and show that he was prepared to shed any blood, and to sweep before him every obstruction, in his way to absolute power. Certain it is, that the open murder of the Duke d'Enghien, and the justly suspected assassinations of Pichegru and Wright, did create a dread, such as had not been felt before; and whilst on previous occasions some faint breathings of liberty were to be heard in the legislative bodies, only one voice, that of Carnot, was raised against investing Bonaparte with the imperial crown, and laying France, an unprotected victim, at his feet.

There remain for our consideration other means employed by Bonaparte for building up and establishing his power, of a different character from those we have named; and which on this account we cannot pass without notice. One of these was the Concordat which he extorted from the Pope, and which professed to re-establish the Catholic religion in France. Our religious prejudices have no influence on our judgment of this measure. We make no objections to it, as the restoration of a worship which on many accounts we condemn. We view it now simply as an instrument of policy, and in this light, it seems to us no proof of the sagacity of Bonaparte. It helps to confirm in us an impression, which other parts of his history give us, that he did not understand the peculiar character of his age, and the peculiar and original policy which it demanded. He always used common-place means of power, although the unprecedented times in which he lived, required a system, which should combine untried resources, and touch new springs of action. Because old governments had found a convenient prop in religion, Napoleon imagined that it was a necessary appendage and support of his sway, and resolved to restore it. But at this moment there were no foundations in France for a religious establishment, which could give strength, and a character of sacredness to the supreme power. There was comparatively no faith, no devout feeling, and still more, no superstition, to supply the place of these. The time for the reaction of the religious

principle had not yet arrived ; and a more likely means of retarding it could hardly have been devised, than the nursing care extended to the church by Bonaparte, the recent Mussulman, the known despiser of the ancient faith, who had no worship at heart but the worship of himself. Instead of bringing religion to the aid of the state, it was impossible that such a man should touch it, without loosening the faint hold which it yet retained on the people. There were none so ignorant as to be the dupes of the First Consul in this particular. Every man, woman, and child, knew that he was playing the part of a juggler. Not one religious association could be formed with his character or government. It was a striking proof of the self-exaggerating vanity of Bonaparte, and of his ignorance of the higher principles of human nature, that he not only hoped to revive and turn to his account the old religion, but imagined that he could, if necessary, have created a new one. "Had the Pope never existed before, he should have been made for the occasion," was the speech of this political charlatan; as if religious opinion and feeling were things to be manufactured by a consular decree. Ancient legislators, by adopting and sympathising with popular and rooted superstitions, were able to press them into the service of their institutions. They were wise enough to build on a pre-existing faith, and studiously to conform to it. Bonaparte, in a country of infidelity and atheism, and whilst unable to refrain from sarcasms on the system which he patronised, was weak enough to believe that he might make it a substantial support of his government. He undoubtedly congratulated himself on the terms which he exacted from the Pope, and which had never been conceded to the most powerful monarchs; forgetting that his apparent success was the defeat of his plans: for just as far as he severed the church from the supreme pontiff, and placed himself conspicuously at its head, he destroyed the only connexion which could give it influence. Just so far its power over opinion and conscience ceased. It became a coarse instrument of state, contemned by the people, and serving only to demonstrate the aspiring views of its master. Accordingly the French bishops in general refused to hold their dignities under this new head, preferred exile to the sacrifice of the rights of the church, and left behind them a hearty abhorrence of the Concordat among the more zealous members of their communion. Happy would it have been for Napoleon, had he left the Pope and the church to themselves. By occasionally recognising and employing, and then insulting and degrading the Roman pontiff, he exasperated a large part of Christendom, fastened on himself the brand of impiety, and awakened a religious hatred which contributed its full measure to his fall.

As another means employed by Bonaparte for giving strength and honor to his government, we may name the grandeur of his public works, which he began in his consulate, and continued after his accession to the imperial dignity. These dazzled France, and still impress travellers with admiration. Could we separate these from his history, and did no other indication of his character survive, we should undoubtedly honor him with the title of a beneficent sovereign; but connected as they are, they do little or nothing to change our conceptions of him as an all-grasping, unprincipled usurper. Paris was the chief object of these labors; and surely we cannot wonder, that he who aimed at universal dominion, should strive to improve and adorn the metropolis of his empire. It is the practice of despots to be lavish of expense on the royal residence and the seat of government. Travellers in France, as in other countries of the continent, are struck and pained by the contrast between the magnificent capital and the mud-walled village, and uninteresting province. Bonaparte had a special motive for decorating Paris, for "Paris is France," as has often been observed; and in conciliating the vanity of the great city, he secured the obedience of the whole country. The boasted internal improvements of Napoleon scarcely deserve to be named, if we compare their influence with the operation of his public measures. The conscription, which drew from agriculture its most effective laborers, and his continental system, which sealed up every port and annihilated the commerce of his empire, drained and exhausted France to a degree, for which his artificial stimulants of industry and his splendid projects afforded no compensation. Perhaps the most admired of all his public works is the road over the Simplon, to which all travellers concur in giving the epithet, stupendous. But it ought not to amaze us, that he, who was aspiring at unlimited opinion, should establish communications between the different provinces of his empire. It ought not to amaze us, that he, who had scaled the glaciers of St. Bernard, should covet some easier passage for pouring his troops into Italy; nor is it very wonderful, that a sovereign, who commanded the revenues of Europe, and who lived in an age when civil engineering had been advanced to a perfection before unknown, should accomplish a bolder enterprise than his predecessors. We would add, that Napoleon must divide with Fabbroni the glory of the road over the Simplon; for the genius, which contrived and constructed, is more properly its author, than the will which commanded it.

There is, however, one great work which gives Bonaparte a fair claim on the gratitude of posterity, and entitles him to an honorable renown. We refer to the new code of laws, which was given to France under his auspices. His participation in this work

has indeed been unwarrantably and ridiculously magnified. Because he attended the meetings of the commissioners to whom it was assigned, and made some useful and sagacious suggestions, he has been praised, as if he had struck out, by the miraculous force of his genius, a new code of laws. The truth is, that he employed for this work, as he should have done, the most eminent civilians of the empire; and it is also true, that these learned men have little claim to originality; for, as our author observes, the code "has few peculiarities making a difference betwixt its principles and those of the Roman law." In other words, they preferred wisdom to novelty. Still Bonaparte deserves great praise for his interest in the work, for the impulse he gave to those to whom it was committed, and for the time and thought which, amidst the cares of a vast empire, he bestowed on it. That his ambition incited him to this labor, we doubt not. He meant to entwine the laurels of Justinian with those of Alexander. But we will not quarrel with ambition, when it is wise enough to devote itself to the happiness of mankind. In the present case, he showed that he understood something of true glory; and we prize the instance more, because it stands almost alone in his history. We look on the conqueror, the usurper, the spoiler of kingdoms, the insatiable despot, with disgust, and see in all these characters an essential vulgarness of mind. But when we regard him as a Fountain of Justice to a vast empire, we recognise in him a resemblance to the just and benignant Deity, and cheerfully accord to him the praise of bestowing on a nation one of the greatest gifts, and of the most important means of improvement and happiness, which it is permitted to man to confer. It was, however, the misery of Bonaparte, a curse brought on him by his crimes, that he could touch nothing without leaving on it the polluting mark of despotism. His usurpation took from him the power of legislating with magnanimity, where his own interest was concerned. He could provide for the administration of justice between man and man, but not between the citizen and the ruler. Political offences, the very class which ought to be submitted to a jury, were denied that mode of trial. Juries might decide on other criminal questions; but they were not to be permitted to interpose between the despot and the ill-fated subjects, who might fall under his suspicion. These were arraigned before "special tribunals, invested with a half military character," the ready ministers of nefarious prosecutions, and only intended to cloak by legal forms the murderous purpose of the tyrant.

We have thus considered some of the means by which Bonaparte consolidated and extended his power. We now see him advanced to that imperial throne, on which he had long fixed his eager eye.

We see France now awed and now dazzled by the influence we have described, and at last surrendering, by public, deliberate acts, without a struggle or a show of opposition, her rights, liberties, interests, and power to an absolute master, and to his posterity for ever. Thus perished the name and forms of the Republic. Thus perished the hopes of philanthropy. The air, which a few years ago resounded with the shouts of a great people casting away their chains, and claiming their birthright of freedom, now rung with the servile cries of long life to a bloodstained usurper. There were indeed generous spirits, true patriots, like our own La Fayette, still left in France. But few, and scattered, they were left to shed in secret the tears of sorrowful and indignant despair. By this base and disastrous issue of their revolution, the French nation not only renounced their own rights, but brought reproach on the cause of freedom, which years cannot wash away. This is to us a more painful recollection, than all the desolations which France spread through Europe, and than her own bitter sufferings, when the hour of retribution came on her. The fields which she laid waste are again waving with harvest ; and the groans which broke forth through her cities and villages, when her bravest sons perished by thousands and ten thousands on the snows of Russia, have died away, and her wasted population is renewed. But the wounds which she inflicted on freedom by the crimes perpetrated in that sacred name, and by the abject spirit with which that sacred cause was deserted, are still fresh and bleeding. France not only subjected herself to a tyrant, but what is worse, she has given tyranny every where new pleas and arguments, and emboldened it to preach openly, in the face of heaven, the impious doctrines of absolute power and unconditional submission.

Napoleon was now Emperor of France ; and a man unacquainted with human nature would think that such an empire, whose bounds now extended to the Rhine, might have satisfied even an ambitious man. But Bonaparte obeyed that law of progress, to which the highest minds are peculiarly subjected ; and acquisition inflamed, instead of appeasing, the spirit of dominion. He had long proposed to himself the conquest of Europe, of the world ; and the title of Emperor added intenseness to this purpose. Did we not fear, that by repetition we might impair the conviction which we are most anxious to impress, we would enlarge on the enormity of the guilt involved in the project of universal empire. Napoleon knew distinctly the price which he must pay for the eminence which he coveted. He knew that the path to it lay over wounded and slaughtered millions, over putrefying heaps of his fellow-creatures, over ravaged fields, smoking ruins, pillaged cities. He knew that his steps would be followed by the groans

of widowed mothers and famished orphans ; of bereaved friendship and despairing love ; and that in addition to this amount of misery, he would create an equal amount of crime, by multiplying indefinitely the instruments and participators of his rapine and fraud. He knew the price, and resolved to pay it. But we do not insist on a topic, which few, very few as yet, understand or feel. Turning then for the present from the moral aspect of this enterprise, we will view it in another light, which is of great importance to a just estimate of his claims on admiration. We will inquire into the nature and fitness of the measures and policy which he adopted for compassing the subjugation of Europe and the world.

We are aware that this discussion may expose us to the charge of great presumption. It may be said that men, having no access to the secrets of cabinets, and no participation in public affairs, are not the best judges of the policy of such a man as Napoleon. This we are not anxious to disprove, nor shall we quarrel with our readers for questioning the soundness of our opinions. But we will say, that though distant, we have not been indifferent observers of the great events of our age, and that though conscious of exposure to many errors, we have a strong persuasion of the substantial correctness of our views. We express then without reserve, our belief, that the policy of Napoleon was wanting in sagacity, and that he proved himself incapable, as we before suggested, of understanding the character and answering the demands of his age. His system was a repetition of old means, when the state of the world was new. The sword and the police, which had sufficed him for enslaving France, were not the only powers required for his designs against the human race. Other resources were to be discovered or created ; and the genius for calling them forth did not, we conceive, belong to Napoleon.

The circumstances under which Napoleon aspired to universal empire, differed in many respects from those under which former conquerors were placed. It was easy for Rome, when she had subdued kingdoms, to reduce them to provinces and to govern them by force ; for nations at that period were bound together by no tie. They had little communication with each other. Differences of origin, of religion, of manners, of language, of modes of warfare ; differences aggravated by long and ferocious wars, and by the general want of civilisation, prevented joint action, and almost all concern for one another's fate. Modern Europe, on the other hand, was an assemblage of civilised states, closely connected by commerce, by literature, by a common faith, by interchange of thoughts and improvements, and by a policy which had for ages proposed, as its chief object, the establishment of such a balance of power as would secure national independence. Under these in-

fluences the human mind had made great progress ; and in truth the French revolution had resulted from an unprecedented excitement and development of men's faculties, and from the extension of power and intelligence through a vastly wider class, than had participated in them at any former period. The very power which Napoleon was wielding, might be traced to an enthusiasm essentially generous, and manifesting a tendency of the civilised world to better institutions. It is plain that the old plans of conquest, and the maxims of comparatively barbarous ages, did not suit such a state of society. An ambitious man was to make his way, by allying himself with the new movements and excitements of the world. The existence of a vast maritime power like England, which, by its command of the ocean and its extensive commerce, was brought into contact with every community, and which at the same time enjoyed the enviable pre-eminence of possessing the freest institutions in Europe, was of itself a sufficient motive for a great modification of the policy, by which one state was now to be placed at the head of the nations. The peculiar character and influence of England, Bonaparte seemed indeed never able to comprehend ; and the violent measures, by which he essayed to tear asunder the old connexions of that country with the continent, only gave them strength, by adding to the ties of interest those of sympathy, of common suffering, and common danger.

Force and corruption were the great engines of Napoleon, and he plied them without disguise or reserve, not caring how far he insulted, and armed against himself, the moral and national feelings of Europe. His great reliance was on the military spirit and energy of the French people. To make France a nation of soldiers was the first and main instrument of his policy ; and here he was successful. The revolution indeed had in no small degree done this work to his hands. To complete it, he introduced a national system of education, having for its plain end to train the whole youth of France to a military life, to familiarise the mind to this destination from its earliest years, and to associate the idea of glory almost exclusively with arms. The conscription gave full efficacy to this system ; for as every young man in the empire had reason to anticipate a summons to the army, the first object in education naturally was to fit him for the field. The public honors bestowed on military talent, and a rigorous impartiality in awarding promotion to merit, so that no origin, however obscure, was a bar to what were deemed the highest honors of Europe, kindled the ambition of the whole people into a flame, and directed it exclusively to the camp. It is true, the conscription, which thinned so terribly the ranks of her youth, and spread anxiety and bereavement through all her dwellings, was severely felt in France. But Napoleon knew

the race whom it was his business to manage; and by the glare of victory, and the title of the Grand Empire, he succeeded in reconciling them for a time to the most painful domestic privations, and to an unexampled waste of life. Thus he secured, what he accounted the most important instrument of dominion, a great military force. But, on the other hand, the stimulants, which for this purpose he was forced to apply perpetually to French vanity, the ostentation with which the invincible power of France was trumpeted to the world, and the haughty, vaunting style which became the most striking characteristic of that intoxicated people, were perpetual irritations of the national spirit and pride of Europe, and implanted a deep hatred towards the new and insulting empire, which waited but for a favorable moment to repay with interest the debt of humiliation.

The condition of Europe forbade, as we believe, the establishment of universal monarchy by mere physical force. The sword, however important, was now to play but a secondary part. The true course for Napoleon seems to us to have been indicated, not only by the state of Europe, but by the means which France in the beginning of her revolution had found most effectual. He should have identified himself with some great interests, opinion, or institutions, by which he might have bound to himself a large party in every nation. He should have contrived to make at least a specious cause against all old establishments. To contrast himself most strikingly and most advantageously with former governments, should have been the key of his policy. He should have placed himself at the head of a new order of things, which should have worn the face of an improvement of the social state. Nor did the subversion of republican forms prevent his adoption of this course, or of some other which would have secured to him the sympathy of multitudes. He might still have drawn some broad lines between his own administration and that of other states, tending to throw the whole dynasties into the shade. He might have cast away all the pageantry and forms of courts, distinguished himself by the simplicity of his establishments, and exaggerated the relief which he gave to his people, by saving them the burdens of a wasteful and luxurious court. He might have insisted on the great benefits that had accrued to France from the establishment of uniform laws, which protected alike all classes of men; and he might have virtually pledged himself to the subversion of the feudal inequalities which still disfigured Europe. He might have insisted on the favorable changes to be introduced into property, by abolishing the entails which fettered it, the rights of primogeniture, and the exclusive privileges of a haughty aristocracy. He might have found abuses enough against which to array himself as a cham-

pion. By becoming the head of new institutions, which would have involved the transfer of power into new hands, and would have offered to the people a real improvement, he might every where have summoned to his standard the bold and enterprising, and might have disarmed the national prejudices to which he fell a prey. Revolution was still the true instrument of power. In a word, Napoleon lived at a period when he could only establish a durable and universal control, through principles and institutions of some kind or other, to which he would seem to be devoted.

It was impossible, however, for such a man as Napoleon to adopt, perhaps to conceive, a system such as has now been traced; for it was wholly at war with that egotistical, self-relying, self-exaggerating principle, which was the most striking feature of his mind. He imagined himself able not only to conquer nations, but to hold them together by the awe and admiration which his own character would inspire; and this bond he preferred to every other. An indirect sway, a control of nations by means of institutions, principles, or prejudices, of which he was to be only the apostle and defender, was utterly inconsistent with that vehemence of will, that passion for astonishing mankind, and that persuasion of his own invincibleness, which were his master feelings, and which made force his darling instrument of dominion. He chose to be the great, palpable, and sole bond of his empire; to have his image reflected from every establishment; to be the centre, in which every ray of glory should meet, and from which every impulse should be propagated. In consequence of this egotism, he never dreamed of adapting himself to the moral condition of the world. The sword was his chosen weapon, and he used it without disguise. He insulted nations as well as sovereigns. He did not attempt to gild their chains, or to fit the yoke gently to their necks. The excess of his extortions, the audacity of his claims, and the insolent language in which Europe was spoken of as the vassal of the great empire, discovered that he expected to reign, not only without linking himself with the interests, prejudices, and national feelings of men, but by setting all at defiance.

It would be easy to point out a multitude of instances in which he sacrificed the only policy by which he could prevail, to the persuasion that his own greatness could more than balance whatever opposition his violence might awaken. In an age in which Christianity was exerting some power, there was certainly a degree of deference due to the moral convictions of society. But Napoleon thought himself more than a match for the moral instincts and sentiments of our nature. He thought himself able to cover the most atrocious deeds by the splendor of his name, and even to extort applause for crimes by the brilliancy of his success. He

took no pains to conciliate esteem. In his own eyes he was mightier than conscience ; and thus he turned against himself the power and resentment of virtue in every breast where that divine principle yet found a home.

Through the same blinding egotism, he was anxious to fill the thrones of Europe with men bearing his own name, and to multiply every where images of himself. Instead of placing over conquered countries efficient men, taken from themselves, who, by upholding better institutions, would carry with them large masses of the people, and who would still, by their hostility to the old dynasties, link their fortunes with his own, he placed over nations such men as Jerome and Murat. He thus spread a jealousy of his power, whilst he rendered it insecure ; for as none of the princes of his creation, however well disposed, were allowed to identify themselves with their subjects, and to take root in the public heart, but were compelled to act, openly and without disguise, as satellites and prefects of the French emperor ; they gained no hold on their subjects, and could bring no strength to their master in his hour of peril. In none of his arrangements did Napoleon think of securing to his cause the attachment of nations. Astonishment, awe, and force were his weapons, and his own great name the chosen pillar of his throne.

So far was Bonaparte from magnifying the contrast and distinctions between himself and the old dynasties of Europe, and from attaching men to himself by new principles and institutions, that he had the great weakness, for so we view it, to revive the old forms of monarchy, and to ape the manners of the old court, and thus to connect himself with the herd of legitimate sovereigns. This was not only to rob his government of that imposing character which might have been given to it, and of that interest which it might have inspired, as an improvement on former institutions, but was to become competitor in a race in which he could not but be distanced. He could indeed pluck crowns from the heads of monarchs ; but he could not by any means infuse their blood into his veins, associate with himself the ideas which are attached to a long line of ancestry, or give to his court the grace of manners, which belongs to older establishments. His true policy was, to throw contempt on distinctions which he could not rival ; and had he possessed the genius and spirit of the founder of a new era, he would have substituted for a crown, and for other long-worn badges of power, a new and simple style of grandeur, and new insignia of dignity, more consonant with an enlightened age, and worthy of one who disdained to be a vulgar king. By the policy which he adopted, if it be worthy of that name, he became a vulgar king, and showed a mind incapable of answering the wants and

demands of his age. It is well known, that the progress of intelligence had done much in Europe to weaken men's reverence for pageantry and show. Nobles had learned to lay aside their trappings in ordinary life, and to appear as gentlemen. Even royalty had begun to retrench its pomp ; and in the face of all this improvement, Bonaparte stooped from his height, to study costumes, to legislate about court dresses and court manners, and to outshine his brother monarchs in their own line. He desired to add the glory of master of ceremonies to that of conqueror of nations. In his anxiety to belong to the caste of kings, he exacted scrupulously the observance and etiquette with which they are approached. Not satisfied with this approximation to the old sovereigns, with whom he had no common interest, and from whom he could not have removed himself too far, he sought to ally himself by marriage with the royal families in Europe, to engraft himself and his posterity on an old imperial tree. This was the very way to turn back opinion into its old channels ; to carry back Europe to its old prejudices ; to facilitate the restoration of its old order ; to preach up legitimacy ; to crush every hope that he was to work a beneficent change among nations. It may seem strange, that his egotism did not preserve him from the imitation of antiquated monarchy. But his egotism, though excessive, was not lofty ; nor was it seconded by a genius, rich and inventive, except in war.

We have now followed Napoleon to the height of his power, and given our views of the policy by which he hoped to make that power perpetual and unbounded. His fall is easily explained. It had its origin in that spirit of self-reliance and self-exaggeration, of which we have seen so many proofs. It began in Spain. That country was a province in reality. He wanted to make it one in name ; to place over it a Bonaparte ; to make it a more striking manifestation of his power. For this purpose, he "kidnapped" its royal family, stirred up the unconquerable spirit of its people, and, after shedding on its plains and mountains the best blood of France, lost it for ever. Next came his expedition against Russia ; an expedition against which his wiser counsellors remonstrated, but which had every recommendation to a man who regarded himself as an exception to his race, and able to triumph over the laws of nature. So insane were his self-confidence and impatience of opposition, that he drove, by his outrages, Sweden, the old ally of France, into the arms of Russia, at the very moment that he was about to throw himself into the heart of that mighty empire. On his Russian campaign we have no desire to enlarge. Of all the mournful pages of history, none are more sad than that which records the retreat of the French army from Moscow. We remem-

ber, that when the intelligence of Napoleon's discomfiture in Russia first reached this country, we were among those who exulted in it, thinking only of the results. But when subsequent and minuter accounts brought distinctly before our eyes that unequalled army of France, broken, famished, slaughtered, seeking shelter under snowdrifts, and perishing by intense cold, we looked back on our joy with almost a consciousness of guilt, and expiated by a sincere grief our insensibility to the sufferings of our fellow-creatures.

We understand that many interesting notices of Napoleon, as he appeared in this disastrous campaign, are given in the *Memoirs of Count Segur*; a book, from which we have been repelled by the sorrows and miseries which it details. We can conceive few subjects more worthy of Shakspeare than the mind of Napoleon, at this moment, when his fate was sealed; when the tide of his victories was suddenly stopped and rolled backwards; when his dreams of invincibleness were broken as by a peal of thunder; when the word, which had awed nations, died away, on the bleak waste, a powerless sound; and when he, whose spirit Europe could not bound, fled in fear from a captive's doom. The shock must have been tremendous to a mind so imperious, scornful, and unschooled to humiliation. The intense agony of that moment, when he gave the unusual orders to retreat; the desolateness of his soul, when he saw his brave soldiers and his chosen guards sinking in the snows, and perishing in crowds around him; his unwillingness to receive the details of his losses, lest self-possession should fail him; the levity and badinage of his interview with the Abbé de Pradt at Warsaw, discovering a mind laboring to throw off an insupportable weight, wrestling with itself, struggling against misery; and, though last not least, his unconquerable purpose, still clinging to lost empire as the only good of life; these workings of such a spirit would have furnished to the great dramatist a theme worthy of his transcendent powers.

By the irretrievable disasters of the Russian campaign, the empire of the world was effectually placed beyond the grasp of Napoleon. The tide of conquest had ebbed, never to return. The spell which had bound the nations was dissolved. He was no longer the Invincible. The weight of military power, which had kept down the spirit of nations, was removed; and their long smothered sense of wrong and insult broke forth like the fires of a volcano. Bonaparte might still, perhaps, have secured the throne of France; but that of Europe was gone. This, however, he did not—could not—would not understand. He had connected with himself too obstinately the character of the world's master to be able to relinquish it. Amidst the dark omens which gathered round him, he still saw in his past wonderful

escapes, and in his own exaggerated energies, the means of rebuilding his fallen power. Accordingly, the thought of abandoning his pretensions does not seem to have crossed his mind, and his irreparable defeat was only a summons to new exertion. We doubt, indeed, whether Napoleon, if he could have understood fully his condition, would have adopted a different course. Though despairing, he would probably have raised new armies, and fought to the last. To a mind, which has placed its whole happiness in having no equal, the thought of descending to the level even of kings is intolerable. Napoleon's mind had been stretched by such ideas of universal empire, that France, though reaching from the Rhine to the Alps, seemed narrow to him. He could not be shut up in it. Accordingly, as his fortunes darkened, we see no signs of relenting. He could not wear, he said, "a tarnished crown;" that is, a crown no brighter than those of Austria and Russia. He continued to use a master's tone. He showed no change, but such as opposition works in the obstinate. He lost his temper, and grew sour. He heaped reproaches on his marshals, and the legislative body. He insulted Metternich, the statesman, on whom, above all others, his fate depended. He irritated Murat by sarcasms, which rankled within him; and accelerated, if they did not determine, his desertion of his master. It is a striking example of retribution, that the very vehemence and sternness of his will, which had borne him onward to dominion, now drove him to the rejection of terms which would have left him a formidable power, and thus made his ruin entire. Refusing to take counsel of events, he persevered in fighting with a stubbornness which reminds us of a spoiled child, who sullenly grasps what he knows he must relinquish, struggles without hope, and does not give over resistance, until his little fingers are one by one unclenched from the object on which he has set his heart. Thus fell Napoleon. We shall follow his history no farther. His retreat to Elba, his irruption into France, his signal overthrow, and his banishment to St. Helena, though they add to the romance of his history, throw no new light on his character, and would of course contribute nothing to our present object. There are indeed incidents in this portion of his life which are somewhat inconsistent with the firmness and conscious superiority which belonged to him. But a man, into whose character so much impulse, and so little principle entered, must not be expected to preserve unblemished, in such hard reverses, the dignity and self-respect of an emperor and a hero.

In the course of these remarks, our views of the Conqueror, of the First Consul, and of the Emperor, have been given plainly and freely. The subject, however, is so important and interesting,

that we have thought it worth our while, though at the hazard of some repetition, to bring together, in a narrower compass, what seem to us the great leading features of the intellectual and moral character of Napoleon Bonaparte.

His intellect was distinguished by rapidity of thought. He understood, by a glance, what most men, and superior men, could learn only by study. He darted to a conclusion rather by intuition than reasoning. In war, which was the only subject of which he was master, he seized in an instant on the great points of his own and his enemy's positions; and combined at once the movements by which an overpowering force might be thrown with unexpected fury on a vulnerable part of the hostile line, and the fate of an army be decided in a day. He understood war as a science; but his mind was too bold, rapid, and irrepressible, to be enslaved by the technicals of his profession. He found the old armies fighting by rule, and he discovered the true characteristic of genius, which, without despising rules, knows when and how to break them. He understood thoroughly the immense moral power, which is gained by originality and rapidity of operation. He astonished and paralysed his enemies by his unforeseen and impetuous assaults, by the suddenness with which the storm of battle burst on them; and, whilst giving to his soldiers the advantages of modern discipline, breathed into them, by his quick and decisive movements, the enthusiasm of ruder ages. This power of disheartening the foe, and of spreading through his own ranks a confidence and exhilarating courage which made war a pastime, and seemed to make victory sure, distinguished Napoleon in an age of uncommon military talent, and was one main instrument of his future power.

The wonderful effects of that rapidity of thought by which Bonaparte was marked, the signal success of his new mode of warfare, and the almost incredible speed with which his fame was spread through nations, had no small agency in fixing his character, and determining for a period the fate of empires. These stirring influences infused a new consciousness of his own might. They gave intensity and audacity to his ambition; gave form and substance to his indefinite visions of glory, and raised his fiery hopes to empire. The burst of admiration, which his early career called forth, must in particular have had an influence, in imparting to his ambition that modification by which it was characterised, and which contributed alike to its success and to its fall. He began with *astonishing* the world with producing a sudden and universal *sensation*, such as modern times had not witnessed. To *astonish* as well as to sway by his energies, became the great aim of his life. Henceforth to rule was not enough for Bonaparte. He wanted to amaze, to dazzle, to overpower men's souls, by striking,

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bold, magnificent, and unanticipated results. To govern ever so absolutely would not have satisfied him, if he must have governed silently. He wanted to reign through wonder and awe, by the grandeur and terror of his name, by displays of power which would rivet on him every eye, and make him the theme of every tongue. Power was his supreme object; but a power which should be gazed at as well as felt, which should strike men as a prodigy, which should shake old thrones as an earthquake, and, by the suddenness of its new creations, should awaken something of the submissive wonder which miraculous agency inspires.

Such seems to us to have been the distinction, or characteristic modification, of his love of fame. It was a diseased passion for a kind of admiration, which, from the principles of our nature, cannot be enduring, and which demands for its support perpetual and more stimulating novelty. Mere esteem he would have scorned. Calm admiration, though universal and enduring, would have been insipid. He wanted to electrify and overwhelm. He lived for effect. The world was his theatre; and he cared little what part he played, if he might walk the sole hero on the stage, and call forth bursts of applause, which would silence all other fame. In war, the triumphs which he coveted were those in which he seemed to sweep away his foes like a whirlwind; and the immense and unparalleled sacrifice of his own soldiers, in the rapid marches and daring assaults to which he owed his victories, in no degree diminished their worth to the victor. In peace, he delighted to hurry through his dominions; to multiply himself by his rapid movements; to gather at a glance the capacities of improvement which every important place possessed; to suggest plans which would startle by their originality and vastness; to project in an instant works which a life could not accomplish, and to leave behind the impression of a superhuman energy.

Our sketch of Bonaparte would be imperfect, indeed, if we did not add, that he was characterised by nothing more strongly than by the spirit of *self-exaggeration*. The singular energy of his intellect and will, through which he had mastered so many rivals and foes, and overcome what seemed insuperable obstacles, inspired a consciousness of being something more than man. His strong original tendencies to pride and self-exaltation, fed and pampered by strange success and unbounded applause, swelled into an almost insane conviction of superhuman greatness. In his own view, he stood apart from other men. He was not to be measured by the standard of humanity. He was not to be retarded by difficulties to which all others yielded. He was not to be subjected to laws and obligations which all others were expected to obey. Nature and the human will were to bend to his power.

He was the child and favorite of fortune, and if not the lord, the chief object of destiny. His history shows a spirit of self-exaggeration, unrivalled in enlightened ages, and which reminds us of an oriental king to whom incense had been burnt from his birth as to a deity. This was the chief source of his crimes. He wanted the sentiment of a common nature with his fellow-beings. He had no sympathies with his race. That feeling of brotherhood, which is developed in truly great souls with peculiar energy, and through which they give up themselves willing victims, joyful sacrifices, to the interests of mankind, was wholly unknown to him. His heart, amidst all its wild beatings, never had one throb of disinterested love. The ties which bind man to man he broke asunder. The proper happiness of a man, which consists in the victory of moral energy and social affection over the selfish passions, he cast away for the lonely joy of a despot. With powers which might have made him a glorious representative and minister of the beneficent Divinity, and with natural sensibilities which might have been exalted into sublime virtues, he chose to separate himself from his kind, to forego their love, esteem, and gratitude, that he might become their gaze, their fear, their wonder; and for this selfish, solitary good, parted with peace and imperishable renown.

This insolent exaltation of himself above the race to which he belonged, broke out in the beginning of his career. His first success in Italy gave him the tone of a master, and he never laid it aside to his last hour. One can hardly help being struck with the *natural* manner with which he arrogates supremacy in his conversation and proclamations. We never feel as if he were putting on a lordly air, or borrowing an imperious tone. In his proudest claims, he speaks from his own mind, and in native language. His style is swollen, but never strained, as if he were conscious of playing a part above his real claims. Even when he was foolish and impious enough to arrogate miraculous powers and a mission from God, his language showed that he thought there was something in his character and exploits to give a color to his blasphemous pretensions. The empire of the world seemed to him to be in a measure his due, for nothing short of it corresponded with his conceptions of himself; and he did not use mere verbiage, but spoke a language to which he gave some credit, when he called his successive conquests "the fulfilment of his destiny."

This spirit of self-exaggeration wrought its own misery, and drew down on him terrible punishments; and this it did by vitiating and perverting his high powers. First, it diseased his fine intellect, gave imagination the ascendancy over judgment, turned the inventiveness and fruitfulness of his mind into rash, impatient, restless energies; and thus precipitated him into projects

which, as the wisdom of his counsellors pronounced, were fraught with ruin. To a man whose vanity took him out of the rank of human beings, no foundation for reasoning was left. All things seemed possible. His genius and his fortune were not to be bounded by the barriers, which experience had assigned to human powers. Ordinary rules did not apply to him. His imagination, disordered by his egotism and by unbounded flattery, leaped over appalling obstacles to the prize which inflamed his ambition. He even found excitement and motives in obstacles, before which other men would have wavered: for these would enhance the glory of triumph, and give a new thrill to the admiration of the world. Accordingly, he again and again plunged into the depths of an enemy's country, and staked his whole fortune and power on a single battle. To be rash was indeed the necessary result of his self-exalting and self-relying spirit; for to dare what no other man would dare, to accomplish what no other man would attempt, was the very way to display himself as a superior being in his own and others' eyes—to be impatient and restless was another necessary issue of the attributes we have described. The calmness of wisdom was denied him. He, who was next to omnipotent in his own eyes, and who delighted to strike and astonish by sudden and conspicuous operations, could not brook delay, or wait for the slow operations of time. A work, which was to be gradually matured by the joint agency of various causes, could not suit a man, who wanted to be felt as the great, perhaps only, cause; who wished to stamp his own agency in the most glaring characters on whatever he performed; and who hoped to rival by a sudden energy the steady and progressive works of nature. Hence so many of his projects were never completed, or only announced. They swelled however the tide of flattery, which ascribed to him the completion of what was not yet begun, whilst his restless spirit, rushing to new enterprises, forgot its pledges, and left the promised prodigies of his creative genius to exist only in the records of adulation. Thus the rapid and inventive intellect of Bonaparte was depraved, and failed to achieve a growing and durable greatness, through his self-exaggerating spirit. It reared indeed a vast and imposing structure, but disproportioned, disjointed, without strength, without foundations. One strong blast was enough to shake and shatter it; nor could his genius uphold it. Happy would it have been for his fame, had he been buried in its ruins.

One of the striking properties of Bonaparte's character was decision; and this, as we have already seen, was perverted, by the spirit of self-exaggeration, into an inflexible stubbornness, which counsel could not enlighten, nor circumstances bend. Having taken the first step, he pressed onward. His purpose he wished

others to regard as a law of nature, or a decree of destiny. It *must* be accomplished. Resistance but strengthened it; and so often had resistance been overborne, that he felt as if his unconquerable will, joined to his matchless intellect, could vanquish all things. On such a mind the warnings of human wisdom and of Providence were spent in vain; and the Man of Destiny lived to teach others, if not himself, the weakness and folly of that all-defying decision, which arrays the purposes of a mortal with the immutableness of the counsels of the Most High.

A still more fatal influence of the spirit of self-exaggeration which characterised Bonaparte remains to be named. It depraved to an extraordinary degree his moral sense. It did not obliterate altogether the ideas of duty, but, by a singular perversion, it impelled him to apply them exclusively to others. It never seemed to enter his thought, that he was subject to the great obligations of morality, which all others are called to respect. He was an exempted being. Whatever stood in his way to empire, he was privileged to remove. Treaties only bound his enemies. No nation had rights but his own France. He claimed a monopoly in perfidy and violence. He was not naturally cruel; but when human life obstructed his progress, it was a lawful prey, and murder and assassination occasioned as little compunction as war. The most luminous exposition of his moral code was given in his counsels to the king of Holland. "Never forget, that in the situation to which my political system and the interests of my empire have called you, your first duty is towards ME—your second towards France. All your other duties, even those towards the people whom I have called you to govern, rank after these." To his own mind he was the source and centre of duty. He was too peculiar and exalted, to be touched by that vulgar stain, called guilt. Crimes ceased to be such, when perpetrated by himself. Accordingly he always speaks of his transgressions as of indifferent acts. He never imagined that they tarnished his glory, or diminished his claim on the homage of the world. In St. Helena, though talking perpetually of himself, and often reviewing his guilty career, we are not aware that a single compunction escapes him. He speaks of his life as calmly as if it had been consecrated to duty and beneficence; whilst in the same breath he has the audacity to reproach unsparingly the faithlessness of almost every individual and nation with whom he had been connected. We doubt whether history furnishes so striking an example of the moral blindness and obduracy to which an unbounded egotism exposes and abandons the mind.

His spirit of self-exaggeration was seen in his openness to adulation. Policy indeed prompted him to put his praises into the

mouths of the venal slaves who administered his despotism. But flattery would not have been permitted to swell into exaggerations, now nauseous, now ludicrous, and now impious, if, in the bosom of the chief, there had not lodged a flatterer who sounded a louder note of praise than all around him. He was remarkably sensitive to opinion, and resented as a wrong the suppression of his praises. The press of all countries was watched; and free states were called on to curb it for daring to take liberties with his name. Even in books published in France on general topics, he expected a recognition of his authority. Works of talent were suppressed, when their authors refused to offer incense at the new shrine. He wished indeed to stamp his name on the literature, as on the legislation, policy, warfare of his age; and to compel genius, whose pages survive statues, columns, and empires, to take a place among his tributaries.

We close our view of Bonaparte's character, by saying, that his original propensities, released from restraint, and pampered by indulgence, to a degree seldom allowed to mortals, grew up into a spirit of despotism as stern and absolute as ever usurped the human heart. The love of power and supremacy absorbed, consumed him. No other passion, no domestic attachment, no private friendship, no love of pleasure, no relish for letters or the arts, no human sympathy, no human weakness, divided his mind with the passion for dominion and for dazzling manifestations of his power. Before this, duty, honor, love, humanity, fell prostrate. Josephine, we are told, was dear to him; but the devoted wife, who had stood firm and faithful in the day of his doubtful fortunes, was cast off in his prosperity, to make room for a stranger, who might be more subservient to his power. He was affectionate, we are told, to his brothers and mother; but his brothers the moment they ceased to be his tools, were disgraced; and his mother, it is said, was not allowed to sit in the presence of her imperial son.¹ He was sometimes softened, we are informed, by the sight of the field of battle strewn with the wounded and dead. But if the Moloch of his ambition claimed new heaps of slain to-morrow, it was never denied. With all his sensibility, he gave millions to the sword, with as little compunction as he would have brushed away so many insects, which had infested his march. To him, all human will, desire, power, were to bend. His superiority, none might question. He insulted the fallen, who had contracted the guilt of opposing his progress; and not even woman's lovefi-

¹ See America, p. 57. We should not give this very unamiable trait of Napoleon's domestic character, but on authority which we cannot question.

ness, and the dignity of a queen, could give shelter from his contumely. His allies were his vassals ; nor was their vassalage concealed. Too lofty to use the arts of conciliation, preferring command to persuasion, overbearing, and all-grasping, he spread distrust, exasperation, fear, and revenge through Europe ; and when the day of retribution came, the old antipathies and mutual jealousies of nations were swallowed up in one burning purpose to prostrate the common tyrant—the universal foe.

Such was Napoleon Bonaparte. But some will say, he was still a great man. This we mean not to deny. But we would have it understood, that there are various kinds or orders of greatness, and that the highest did not belong to Bonaparte. There are different orders of greatness. Among these, the first rank is unquestionably due to *moral* greatness, or magnanimity ; to that sublime energy by which the soul, subdued by the love of virtue, binds itself indissolubly, for life and for death, to truth and duty ; espouses as its own the interests of human nature ; scorns all meanness and defies all peril ; hears in its own conscience a voice louder than threatenings and thunders ; withstands all the powers of the universe, which would sever it from the cause of freedom, virtue, and religion ; reposes an unfaltering trust in God in the darkest hour, and is ever “ ready to be offered up ” on the altar of its country or of mankind. Of this moral greatness, which throws all other forms of greatness into obscurity, we see not a trace or spark in Napoleon. Though clothed with the power of a God, the thought of consecrating himself to the introduction of a new and higher era, to the exaltation of the character and condition of his race, seems never to have dawned on his mind. The spirit of disinterestedness and self-sacrifice appears not to have waged a moment’s war with self-will and ambition. His ruling passions, indeed, were singularly at variance with magnanimity. Moral greatness has too much simplicity, is too unostentatious, too self-subsistent, and enters into others’ interests with too much heartiness, to live a day for what Napoleon always lived, to make itself the theme, and gaze, and wonder of a dazzled world. Next to moral, comes *intellectual* greatness, or genius in the highest sense of that word ; and by this we mean that sublime capacity of thought, through which the soul, smitten with the love of the true and the beautiful, essays to comprehend the universe, soars into the heavens, penetrates the earth, penetrates itself, questions the past, anticipates the future, traces out the general and all-comprehending laws of nature, binds together, by innumerable affinities and relations, all the objects of its knowledge, and, not satisfied with what exists and with what is finite, frames to itself ideal excellence, loveliness, and grandeur. This is the greatness which belongs to philoso-

phers, inspired poets, and to the master-spirits in the fine arts: Next comes the greatness of *action*; and by this we mean the sublime power of conceiving and executing bold and extensive plans; of constructing and bringing to bear on a mighty object, a complicated machinery of means, energies, and arrangements, and of accomplishing great outward effects. To this head belongs the greatness of Bonaparte; and that he possessed it we need not prove, and none will be hardy enough to deny. A man, who raised himself from obscurity to a throne, who changed the face of the world, who made himself felt through powerful and civilised nations, who sent the terror of his name across seas and oceans, whose will was pronounced and feared as destiny, whose donatives were crowns, whose antechamber was thronged by submissive princes, who broke down the awful barrier of the Alps and made them a highway, and whose fame was spread beyond the boundaries of civilisation to the steppes of the cossack, and the deserts of the Arab; a man, who has left this record of himself in history, has taken out of our hands the question, whether he shall be called great. All must concede to him a sublime power of action, an energy equal to great effects.

We are not disposed, however, to consider him as pre-eminent even in this order of greatness. War was his chief sphere. He gained his ascendancy in Europe by the sword. But war is not the field for the highest active talent, and Napoleon, we suspect, was conscious of this truth. The glory of being the greatest general of his age, would not have satisfied him. He would have scorned to take his place by the side of Marlborough or Turenne. It was as the founder of an empire, which threatened for a time to comprehend the world, and which demanded other talents besides that of war, that he challenged unrivalled fame. And here we question his claim. Here we cannot award him supremacy. The project of universal empire, however imposing, was not original. The revolutionary governments of France had adopted it before; nor can we consider it as a sure indication of greatness, when we remember that the weak and vain mind of Louis XIV. was large enough to cherish it. The question is, did Napoleon bring to this design the capacity of advancing it by bold and original conceptions, adapted to an age of civilisation, and of singular intellectual and moral excitement? Did he discover new foundations of power? Did he frame new bonds of union for subjugated nations? Did he discover, or originate, some common interests by which his empire might be held together? Did he breathe a spirit which should supplant the old national attachments; or did he invent any substitutes for those vulgar instruments of force and corruption, which any and every usurper would have used? Never in the

records. of time did the world furnish such materials to work with, such means of modelling nations afresh, of building up a new power, of introducing a new era, as did Europe at the period of the French revolution. Never was the human mind so capable of new impulses. And did Napoleon prove himself equal to the condition of the world? Do we detect one original conception in his means of universal empire? Did he seize on the enthusiasm of his age, that powerful principle, more efficient than arms or policy, and bend it to his purpose? What did he do but follow the beaten track? but apply force and fraud in their very coarsest forms? Napoleon showed a vulgar mind, when he assumed self-interest as the sole spring of human action. With the sword in one hand and bribes in the other, he imagined himself absolute master of the human mind. The strength of moral, national, and domestic feeling, he could not comprehend. The finest, and, after all, the most powerful elements in human nature, hardly entered into his conceptions of it; and how then could he have established a durable power over the human race? We want little more to show his want of originality and comprehensiveness as the founder of an empire, than the simple fact, that he chose as his chief counsellors Talleyrand and Fouché, names which speak for themselves. We may judge of the greatness of the master-spirit, from the minds which he found most congenial with his own. In war, Bonaparte was great; for he was bold, original, and creative. Beyond the camp he indeed showed talent, but not superior to that of other eminent men.

There have been two circumstances which have done much to disarm or weaken the strong moral reprobation with which Bonaparte ought to have been regarded, and which we deem worthy of notice. We refer to the wrongs which he is supposed to have suffered at St. Helena, and to the unworthy use which the Allied Powers have made of their triumph over Napoleon. First, his supposed wrongs at St. Helena have excited a sympathy in his behalf, which has thrown a veil over his crimes. We are not disposed to deny that an unwarrantable, because unnecessary severity was exercised towards Bonaparte. We deem it not very creditable to the British government, that it tortured a sensitive captive by refusing him a title which he had long worn. We think that not only religion and humanity, but self-respect, forbids us to inflict a single useless pang on a fallen foe. But we should be weak indeed, if the moral judgments and feelings, with which Napoleon's career ought to be reviewed, should give place to sympathy with the sufferings by which it was closed. With regard to the scruples, which not a few have expressed as to the right of banishing him to St. Helena, we can only say, that our consciences

are not yet refined to such exquisite delicacy, as to be at all sensitive on this particular. We admire nothing more in Bonaparte, than the effrontery with which he claimed protection from the laws of nations. That a man who had set these laws at open defiance, should fly to them for shelter; that the oppressor of the world should claim its sympathy as an oppressed man, and that his claim should find advocates: these things are to be set down among the extraordinary events of this extraordinary age. Truly, the human race is in a pitiable state. It may be trampled on, spoiled, loaded like a beast of burden, made the prey of rapacity, insolence, and the sword; but it must not touch a hair, or disturb the pillow of one of its oppressors, unless it can find chapter and verse in the code of national law, to authorise its rudeness towards the privileged offender. For ourselves, we should rejoice to see every tyrant, whether a usurper or hereditary prince, fastened to a lonely rock in the ocean. Whoever gives clear, undoubted proof, that he is prepared and sternly resolved to make the earth a slaughter-house, and to crush every will adverse to his own, ought to be caged like a wild beast; and to require mankind to proceed against him according to written laws and precedents, as if he were a private citizen in a quiet court of justice, is just as rational as to require a man, in imminent peril from an assassin, to wait and prosecute his murderer according to the most protracted forms of law. There are great solemn rights of nature which precede laws, and on which law is founded. There are great exigencies in human affairs which speak for themselves, and need no precedent to reach the right path. There are awful periods in the history of our race which do not belong to its ordinary state, and which are not to be governed and judged by ordinary rules. Such a period was that, when Bonaparte, by infraction of solemn engagements, had thrown himself into France, and convulsed all Europe; and they, who confound this with the ordinary events of history, and see in Bonaparte but an ordinary foe to the peace and independence of nations, have certainly very different intellects from our own.

We confess, too, that we are not only unable to see the wrong done to Napoleon in sending him to St. Helena, but that we cannot muster up much sympathy for the inconveniences and privations which he endured there. Our sympathies, in this particular, are wayward and untractable. When we would carry them to that solitary island, and fasten them on the illustrious victim of British cruelty, they will not tarry there, but take their flight across the Mediterranean to Jaffa, and across the Atlantic to the platform where the Duke d'Enghien was shot, to the prison of Toussaint, and to the fields of battle where thousands at his bidding lay

weltering in blood. When we strive to fix our thoughts on the sufferings of the injured hero, other and more terrible sufferings, of which he was the cause, rush on us; and his complaints, however loud and angry, are drowned by groans and execrations which fill our ears from every region which he traversed. We have no tears to spare for fallen greatness, when that greatness was founded in crime, and reared by force and perfidy. We reserve them for those on whose ruin it rose. We keep our sympathies for our race—for human nature in its humbler forms—for the impoverished peasant, the widowed mother, the violated virgin; and are even perverse enough to rejoice that the ocean has a prison-house, where the author of those miseries may be safely lodged. Bonaparte's history is to us too solemn, the wrongs for which humanity and freedom arraign him are too flagrant, to allow us to play the part of sentimentalists around his grave at St. Helena. We leave this to the more refined age in which we live; and we do so in the hope that an age is coming of less tender mould, but of loftier, sterner feeling, and of deeper sympathy with the whole human race. Should our humble page then live, we trust with an undoubting faith, that the uncompromising indignation with which we plead the cause of our oppressed and insulted nature, will not be set down to the account of our vindictiveness and hardness of heart.

We observed that the moral indignation of many towards Bonaparte had been impaired or turned away, not only by his supposed wrongs, but by the unworthy use which his conquerors made of their triumph. We are told, that bad as was his despotism, the Holy Alliance is a worse one; and that Napoleon was less a scourge, than the present coalition of the continental monarchs, framed for the systematic suppression of freedom. By such reasoning, his crimes are cloaked, and his fall made a theme of lamentation. It is not one of the smallest errors and sins of the Allied Sovereigns, that they have contrived, by their base policy, to turn the resentments and moral displeasure of men from the usurper on themselves. For these sovereigns we have no defence to offer. We yield to none in detestation of the Holy Alliance, profanely so called. To us its doctrines are as false and pestilent, as any broached by Jacobinism. The Allied Monarchs are adding to the other wrongs of despots, that of flagrant ingratitude; of ingratitude to the generous and brave nations to whom they owe their thrones, whose spirit of independence and patriotism, and whose hatred of the oppressor, contributed more than standing-armies to raise up the fallen, and to strengthen the falling monarchies of Europe. Be it never forgotten in the records of despotism, let history record it on her most durable tablet, that the first use made by the principal continental sovereigns of their regained or confirmed power, was,

to conspire against the hopes and rights of the nations by whom they had been saved ; and to combine the military power of Europe against free institutions, against the press, against the spirit of liberty and patriotism which had sprung up in the glorious struggle with Napoleon, against the right of the people to exert an influence on the governments by which their dearest interests were to be controlled. Never be it forgotten, that such was the honor of sovereigns, such their requital for the blood which had been shed freely in their defence. Freedom and humanity send up a solemn and prevailing cry against them to that tribunal, where kings and subjects are soon to stand as equals.

But still we should be strangely blind, if we were not to feel that the fall of Napoleon was a blessing to the world. Who can look, for example, at France, and not see there a degree of freedom which could never have grown up under the terrible frown of the usurper ? True ; Bonaparte's life, though it seemed a charmed one, must at length have ended ; and that we are told that then his empire would have been broken, and that the general crash, by some inexplicable process, would have given birth to a more extensive and durable liberty than can now be hoped. But such anticipations seem to us to be built on a strange inattention to the nature and inevitable consequences of Napoleon's power. It was wholly a military power. He was literally turning Europe into a camp, and drawing its best talent into one occupation—war. Thus Europe was retracing its steps to those ages of calamity and darkness, when the only law was the sword. The progress of centuries, which had consisted chiefly in the substitution of intelligence, public opinion, and other mild and rational influences for brutal force, was to be reversed. At Bonaparte's death, his empire must, indeed, have been dissolved ; but military chiefs, like Alexander's lieutenants, would have divided it. The sword alone would have shaped its future communities ; and after years of desolation and bloodshed, Europe would have found, not repose, but a respite, an armed truce, under warriors, whose only title to empire would have been their own good blades, and the weight of whose thrones would have been upheld by military force alone. Amidst such convulsions, during which the press would have been every where fettered, and the military spirit would have triumphed over and swallowed up the spirit and glory of letters and liberal arts, we greatly fear that the human intellect would have lost its present impulse, its thirst for progress, and would have fallen back towards barbarism. Let not the friends of freedom bring dishonor on themselves, or desert their cause, by instituting comparisons between Napoleon and legitimate sovereigns, which may be construed into eulogies on the former. For ourselves, we have

no sympathy with tyranny, whether it bear the name of usurpation or legitimacy. We are not pleading the cause of the Allied Sovereigns. In our judgment, they have contracted the very guilt against which they have pretended to combine. In our apprehension, a conspiracy against the rights of the human race is as foul a crime as rebellion against the rights of sovereigns; nor is there less of treason in warring against public freedom, than in assailing royal power. Still we are bound in truth to confess, that the Allied Sovereigns are not to be ranked with Bonaparte, whose design against the independence of nations and the liberties of the world, in this age of civilisation, liberal thinking, and Christian knowledge, is in our estimation the most nefarious enterprise recorded in history.

The series of events, which it has been our province to review, offers subjects of profound thought and solemn instruction to the moralist and politician. We have retraced it with many painful feelings. It shows us a great people, who had caught some indistinct glimpses of freedom, and of a nobler and a happier political constitution, betrayed by their leaders, and brought back, by a military despot, to heavier chains than those they had broken. We see with indignation one man, a man like ourselves, subjecting whole nations to his absolute rule. It is this wrong and insult to our race which has chiefly moved us. Had a storm of God's ordination passed over Europe, prostrating its capitals, sweeping off its villages, burying millions in ruins, we should have wept, we should have trembled. But in this there would have been only wretchedness. Now we also see debasement. To us there is something radically and increasingly shocking, in the thought of one man's will becoming a law to his race; in the thought of multitudes, of vast communities, surrendering conscience, intellect, their affections, their rights, their interests, to the stern mandate of a fellow-creature. When we see one word of a frail man on the throne of France tearing a hundred thousand sons from their homes, breaking asunder the sacred ties of domestic life, sentencing myriads of the young, to make murder their calling, and rapacity their means of support, and extorting from nations their treasures to extend this ruinous sway, we are ready to ask ourselves, Is not this a dream? And when the sad reality comes home to us, we blush for a race which can stoop to such an abject lot. At length, indeed, we see the tyrant humbled, stripped of power; but stripped by those who, with one exception, are not unwilling to play the despot on a narrower scale, and to break down the spirit of nations under the same iron sway.

How is it that tyranny has thus triumphed? that the hopes with which we greeted the French revolution have been crushed?

that an usurper plucked up the last roots of the tree of liberty, and planted despotism in its place? The chief cause is not far to seek, nor can it be too often urged on the friends of freedom. France failed through the want of that moral preparation for liberty, without which the blessing cannot be secured. She was not ripe for the good she sought. She was too corrupt for freedom. France had indeed to contend with great political ignorance; but had not ignorance been reinforced by deep moral defect, she might have won her way to free institutions. Her character forbade her to be free; and it now seems strange that we could ever have expected her to secure this boon. How could we believe, that a liberty, of which that heartless scoffer, Voltaire, was a chief apostle, could have triumphed? Most of the preachers of French liberty had thrown off all the convictions which ennoble the mind. Man's connexion with God they broke; for they declared that there was no God, in whom to trust in the great struggle for liberty. Human immortality, that truth which is the seed of all greatness, they derided. To their philosophy, man was a creature of chance, a compound of matter, an ephemeron, a worm, who was soon to rot and perish for ever. What insanity was it to expect that such men were to work out the emancipation of their race! that in such hands the hopes and dearest rights of humanity were secure. Liberty was tainted by their touch, polluted by their breath, and yet we trusted that it was to rise in health and glory from their embrace. We looked to men, who openly founded morality on private interest, for the sacrifices, the devotion, the heroic virtue, which freedom always demands from her assertors.

The great cause of the discomfiture of the late European struggle for liberty, is easily understood by an American, who recurs to the history of his own revolution. This issued prosperously, because it was begun and was conducted under the auspices of private and public virtue. Our liberty did not come to us by accident, nor was it the gift of a few leaders; but its seeds were sown plentifully in the minds of the whole people. It was rooted in the conscience and reason of the nation. It was the growth of deliberate convictions and generous principles liberally diffused. We had no Paris, no metropolis, which a few leaders swayed, and which sent forth its influences, like "a mighty heart," through dependent and subservient provinces. The country was all heart. The living principle pervaded the community, and every village added strength to the solemn purpose of being free. We have here an explanation of a striking fact in the history of our revolution—we mean the want or absence of that description of great men whom we meet in other countries; men, who, by their

distinct and single agency, and by their splendid deeds, determine a nation's fate. There was too much greatness in the American people, to admit this overshadowing greatness of leaders. Accordingly the United States had no liberator, no political saviour. Washington indeed conferred on us great blessings. But Washington was not a hero in the common sense of that word. We never spoke of him as the French did of Bonaparte; never talked of his eagle-eyed, irresistible genius, as if this were to work out our safety. We never lost our self-respect. We felt that, under God, we were to be free through our own courage, energy, and wisdom, under the animating and guiding influences of this great and good mind. Washington served us chiefly by his sublime moral qualities, and not by transcendent talent, which, we apprehend, he did not possess. To him belonged the proud distinction of being the leader in a revolution, without awakening one doubt or solicitude as to the spotless purity of his purpose. His was the glory of being the brightest manifestation of the spirit which reigned in his country; and in this way he became a source of energy, a bond of union, the centre of an enlightened people's confidence. In such a revolution as that of France, Washington would have been nothing: for that sympathy which subsisted between him and his fellow-citizens, and which was the secret of his power, would have been wanting. By an instinct, which is unerring, we call Washington, with grateful reverence, the Father of his Country, but not its Saviour. A people, which wants a saviour, which does not possess an earnest and pledge of freedom in its own heart, is not yet ready to be free.

A great question here offers itself, at which we can only glance. If a moral preparation is required for freedom, how, it is asked, can Europe ever be free? How, under the despotisms which now crush the continent, can nations grow ripe for liberty! Is it to be hoped, that men will learn, in the school of slavery, the spirit and virtues, which, we are told, can alone work out their deliverance? In the absolute governments of Europe, the very instruments of forming an enlightened and generous love of freedom are bent into the service of tyranny. The press is an echo of the servile doctrines of the court. The schools and seminaries of education are employed to taint the young mind with the maxims of despotism. Even Christianity is turned into a preacher of legitimacy, and its temples are desecrated by the abject teaching of unconditional submission. How then is the spirit of a wise and moral freedom to be generated and diffused? We have stated the difficulty in its full force; for nothing is gained by winking out of sight the tremendous obstacles with which liberal principles and institutions must contend. We have not time at present to answer the great question now proposed. We will only say, that

we do not despair; and we will briefly suggest what seems to us the chief expedient, by which the cause of freedom, obstructed as it is, must now be advanced. In despotic countries, those men, whom God hath inspired with lofty sentiments and a thirst for freedom, (and such are spread through all Europe,) must, in their individual capacity, communicate themselves to individual minds. The cause of liberty on the continent cannot now be forwarded by the action of men in masses. But in every country there are those who feel their degradation and their wrongs, who abhor tyranny as the chief obstruction of the progress of nations, and who are willing and prepared to suffer for liberty. Let such men spread around them their own spirit by every channel which a jealous despotism has not closed. Let them give utterance to sentiments of magnanimity in private conference, and still more by the press: for there are modes of clothing and expressing kindling truths, which, it is presumed, no censorship would dare to proscribe. Let them especially teach that great truth, which is the seminal principle of a virtuous freedom, and the very foundation of morals and religion—we mean the doctrine, that conscience, the voice of God in every heart, is to be listened to above all other guides and lords; that there is a sovereign within us, clothed with more awful powers and rights than any outward king; and that he alone is worthy the name of a man, who gives himself up solemnly, deliberately, to obey this internal guide through peril and in death. This is the spirit of freedom: for no man is wholly and immutably free but he who has broken every outward yoke, that he may obey his own deliberate conscience. This is the lesson to be taught alike in republics and despotisms. As yet it has but dawned on the world. Its full application remains to be developed. They who have been baptised, by a true experience, into this vital and all-comprehending truth, must every where be its propagators; and he who makes one convert to it near a despot's throne, has broken one link of that despot's chain. It is chiefly in the diffusion of this loftiness of moral sentiment that we place our hope of freedom; and we have a hope, because we know that there are those who have drunk into this truth, and are ready, when God calls, to be its martyrs. We do not despair; for there is a contagion; we would rather say, a divine power in sublime moral principle. This is our chief trust. We have less and less hope from force and bloodshed, as the instruments of working out man's redemption from slavery. History shows us not a few princes, who have gained or strengthened thrones by assassination or war. But freedom, which is another name for justice, honor, and benevolence, scorns to use the private dagger, and wields with trembling the public sword. The true conspiracy, before which tyranny is to fall, is that of virtuous, elevated minds, which

shall consecrate themselves to the work of awakening in men a consciousness of the rights, powers, purposes, and greatness of human nature ; which shall oppose to force the heroism of intellect and conscience, and the spirit of self-sacrifice. We believe that, at this moment, there are virtue and wisdom enough to shake despotic thrones, were they as confiding, as they should be, in God and in their own might, and were they to pour themselves through every channel into the public mind.

We close our present labors with commending to the protection of Almighty God the cause of human freedom and improvement. We adore the wisdom and goodness of his providence, which has ordained that liberty shall be wrought out by the magnanimity, courage, and sacrifices of men. We bless him for the glorious efforts which this cause has already called forth ; for the intrepid defenders who have gathered round it, and whose fame is a most precious legacy of past ages ; for the toils and sufferings by which it has been upheld ; for the awakening and thrilling voice which comes to us from the dungeon and scaffold, where the martyrs of liberty have pined or bled. We bless him that even tyranny has been overruled for good by exciting a resistance, which has revealed to us the strength of virtuous principle in the human soul. We beseech this great and good Parent, from whom all pure influences proceed, to enkindle, by his quickening breath, an unquenchable love of virtue and freedom in those favored men, whom he hath enriched and signalised by eminent gifts and powers, that they may fulfil the high function of inspiring their fellow-beings with a consciousness of the birth-right and destination of human nature. Wearied with violence and blood, we beseech him to subvert oppressive governments by the gentle yet awful power of truth and virtue ; by the teachings of uncorrupted Christianity ; by the sovereignty of enlightened opinion ; by the triumph of sentiments of magnanimity ; by mild, rational, and purifying influences, which will raise the spirit of the enslaved, and which sovereigns will be unable to withstand. For this peaceful revolution we earnestly pray. If, however, after long forbearing and unavailing applications to justice and humanity, the friends of freedom should be summoned by the voice of God within, and by his providence abroad, to vindicate their rights with other arms to do a sterner work, to repel despotic force by force, may they not forget, even in this hour of provocation, the spirit which their high calling demands. Let them take the sword with awe, as those on whom a holy function is devolved. Let them regard themselves as ministers and delegates of Him, whose dearest attribute is mercy. Let them not stain their sacred cause by one cruel deed, by the infliction of one needless pang, by shedding without cause one drop of human blood.

LETTERS

TO THE

RIGHT HON. ROBERT PEEL, M. P.

ON

THE EFFECT AND OBJECT OF HIS ALTERATION
IN THE LAW OF ENGLAND,

WITH REFERENCE TO THE EXTENSION OF
THE JURISDICTION OF JUSTICES OF THE PEACE.

By CHARLES BIRD, BARRISTER-AT-LAW.

SECOND EDITION.

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LETTER I.

SIR,

Gascoyne Place, Plymouth, 2d Nov. 1827.

IGNORANCE or treachery has crowned your brows with the civic wreath; in the name of Justice and of Truth, for what?—For the extension of a jurisdiction which the judges of England have ever viewed with jealousy, and have invariably pronounced to be a restriction of the Common Law, of a jurisdiction which was in the days of Lord Holt, compared with its present magnitude, as a *mole-hill* to a *mountain*, and which *even then*, that intrepid lawyer denounced as a *violation of the Great Charter of our rights*. Such, Sir, is the unaccountable infatuation and blindness of your too-confiding country, that it would little astonish me, after the perusal of that Act, which will transmit your name to posterity either with honor or with infamy, to hear that at the constitutional meetings in London, the truly patriotic toast of “*Erskine and Trial by Jury*,” had given place to that of “*Peel and Trial by Priests*.” How is it, Sir, that the eyes of that great man are scarcely closed in death, ere you step forth, and, with unholy hand, deface the glorious palladium of our laws, the fearless advocacy of which raised him to the highest civil office in the state which a subject can enjoy, and conferred on his name honor immortal?—Great God! what a

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revolution in the laws of my country! In how short a space of time, and how quietly and silently has it been effected. Startle not, Sir, at the word revolution, for history will inform you that revolutions oft-times revel in the calm, though they sometimes ride on the storm. But, Sir,

We will meet at Westminster,

where I now pledge myself to my country to join issue with you on the most awful question that can interest a free people. Should the present age do to either of us injustice, my prayer shall be that posterity may reverse the judgment. I will there, when the parliament assembles, petition the legislature for the restoration of trial by jury, the revision of the subordinate courts of justice, the institution of competent legal tribunals, and for the gradual and eventually the total exclusion of the priesthood from the magistracy of England.

LETTER II.

SIR,

*Gascoyne Place, Plymouth, Devon,
5th December, 1837.*

SINCE my last address to you, I have been informed that you are not deeply versed in the laws of your country: this, I must believe, or conclude, that at the moment when you framed the second section of your Act (as it is commonly called) which abolished the Common Law distinction between Grand Larceny and Petty Larceny, you knew that the Act of Parliament which passed in the eleventh year of the reign of Henry the Seventh, extending the *summary jurisdiction of justices of the peace* to all offences *short of felony*, brought Empson and Dudley to the block; and that so intolerable were the consequent oppressions, that its repeal is recorded in our statute-book, as one amongst the mild mercies of his successor's reign; and that you also knew that Sir Edward Coke afterwards referred to it in his institute on the laws of England, not as a model for imitation, but as a *beacon* to warn future generations *of the danger of altering the Common Law*; but, Sir, as it is possible that you may never have consulted this great legal authority, I will give you his very words. Alluding to the twenty-ninth chapter of Magna Charta, which confirms to the people of England their right to *trial by jury*, he says:

“Against this *ancient and fundamental law*, and *in the face thereof*, I find an Act of Parliament made, that as well justices of

assize as *justices of the peace* (without any finding or presentment by twelve men), on a bare information for the king before them made, should have power and authority by their *discretions* to hear and determine all offences and contempts committed or done by any person or persons, against the form, ordinance, and effect of any statute made and not repealed, &c.; by colour of which Act, *shaking this fundamental law*, it is not credible what horrible oppressions and exactions, to the undoing of infinite numbers of people, were committed by Sir Richard Empson, Knt., and Dudley, being *justices of peace* throughout England; and on this unjust and injurious Act (as commonly in like cases it falleth out) a new office was erected, and they made masters of the king's forfeitures.

"But at the parliament holden in the first year of Henry the Eighth, this Act of Henry the Seventh is recited, and made void, and repealed; and the reason thereof is yielded: for that by force of the said Act, it was manifestly known that many sinister and crafty, feigned and forged informations, had been pursued against divers of the king's subjects, to their great damage and wrongful vexation; and the fearful success hereof, and the fearful ends of these two oppressors, *should deter others from committing the like, and should admonish parliaments, that instead of this ordinary and precious trial by the law of the land, they bring not in absolute and partial trials by discretion.*"

It is possible, Sir, that you may have been unacquainted with this terrible example, which appears not only in the learned Judge's excellent work, but also in the statute-book of the realm; but can you have been ignorant that, only sixty years ago, the elegant commentator on the laws of England, Sir William Blackstone, expressed his fearful apprehensions of the dangerous consequences of further extending *summary jurisdictions*, not only in *criminal* but likewise in *civil cases*? After alluding to the summary nature of all trials of offences, as frauds contrary to the laws of *excise* and other branches of the *revenue*, on which he says, "we shall find that the power of the officers of the crown *over the property of the people* is increased to a very formidable height," he thus proceeds:—

"Another branch of summary proceedings is that before *justices of the peace*, in order to inflict divers petty pecuniary mulcts and corporal penalties denounced by Act of Parliament for many disorderly offences; such as common swearing, drunkenness, vagrancy, idleness, and a vast variety of others, which used to be formerly punished by a *verdict of a jury* in the court-leet. This change in the administration of justice hath however had some mischievous effects; as, 1. The almost entire disuse

and contempt of the court-leet, and sheriff's tourn, the king's ancient court of Common Law, *formerly much revered and respected*. 2. The burdensome increase of the business of a *justice of the peace*, which discourages so many gentlemen of rank and character from acting in the commission, from an apprehension that the duty of the office would take up too much of that time, which they are unwilling to spare from the necessary concerns of their families, the improvement of their understandings, and their engagements in other services of the public. Though if *all* gentlemen of fortune had it both in their power and inclinations to act in this capacity, the business of a justice of the peace would be more divided, and fall the less heavy on individuals; which would remove what in the present scarcity of magistrates is really an objection so formidable, that the country is greatly obliged to any gentleman of figure who will undertake to perform that duty, which, in consequence of his rank in life, he owes more peculiarly to his country. However, this backwardness to act as magistrates, arising greatly from *this increase of summary jurisdiction*, is productive of a third mischief; which is, that this trust, when slighted by gentlemen, falls of course into the hands of those who are not so, *but the mere tools of office*; and then the extensive power of a *justice of the peace*, which even in the hands of men of honor is highly formidable, will be prostituted to mean and scandalous purposes, to the low ends of selfish ambition, avarice, or personal resentment. From these ill consequences, we may collect the prudent *foresight* of our *ancient lawgivers*, who suffered neither the *property* nor the *punishment* of the subject to be determined by the opinion of any *one or two men*; and we may also observe *the necessity of not deviating any further from our ancient constitution*, by ordaining new penalties to be inflicted on *summary convictions*."—4 Bla. Com. 281, 14 Edn. "It" (meaning this summary jurisdiction of justices of the peace) "has of late been so far extended, as, *if a check be not timely given*, to threaten the disuse of our admirable and truly English trial by jury, *unless only in capital cases*."—4 Bla. Com. 280.

Forget not, Sir, these last words "*unless only in capital cases*," for they conduce most essentially to the development of the object of the second section of your Act! With respect to the extension of this jurisdiction, even in *civil* cases, he says:

"It is to be feared that the general remedy, which of late hath been principally applied to cure the inconvenience arising from the disuse of the ancient county and hundred courts, may itself be attended in time with very ill consequences; as the method of proceeding therein is entirely *in derogation of the Common Law*;

as their discretionary powers create a petty tyranny in a set of standing commissioners; and as the *disuse of trial by jury* may tend to estrange the minds of the people from *that valuable prerogative of Englishmen, which has already been more than sufficiently excluded in many instances.*—3 Bla. Com. 82. Again, for the very purpose of *detering future legislators from invading the Common Law*, he says: “It hath been an ancient observation in the laws of England, that wherever a standing rule of law, of which the reason, perhaps, could not be remembered or discerned, hath been wantonly broken in on by statutes or new resolutions, the wisdom of the rule hath in the end appeared from the inconveniences that have followed *the innovation.*”

The standing rule of law, Sir, which your Act has broken in on, was the immemorial law of England, *even at the date of Magna Charta*. Its reason and its wisdom were so well remembered and discerned, that it had survived the cruel invasions of the Danes, and even the Conquest itself, and so endeared was it to our forefathers, that they, at the risk of their property and their lives, sword in hand, demanded and obtained its recognition and confirmation; and so jealous were their descendants of the least innovation of it, that in the course of a very few succeeding reigns there are no less than thirty instances of its confirmation. It has for nearly *six hundred years* since that period survived the political convulsions of our country; and scarcely has there been a writer on our law, or a judge on the bench, who has not admitted, nay, even eulogised its excellence and perfection. Of course I must except those, who attempted to confer on us the blessings of the *Civil Law*, to whom our ancestors made this noble reply: “*that they would not change the laws of England, which had hitherto been used and approved.*” But for their patriotic opposition to its introduction, England would not now boast of the pre-eminence of her civil and religious institutions over those of the other nations of Europe. Would to God, Sir, that the people of England had made to you a similar reply!

On the subject of *trial by jury* the learned commentator says: “that it is that *trial by the peers of every Englishman*, which, as the grand bulwark of his liberties, is secured to him by the Great Charter.—‘*No freeman shall be taken, or imprisoned, or be dis-seised of his freehold or his liberties or free customs, or be outlawed or exiled, or in any otherwise destroyed, nor will we pass on him nor condemn him, unless by the lawful judgment of his peers, or by the law of the land.*’”

Perhaps you, Sir, who are a legislator, know that these latter words “*by the law of the land,*” mean by indictment or presentment of good and lawful men.

"The antiquity and excellence," says he, "of this trial for the settling of *civil* property has before been explained at large; and it will hold much stronger in *criminal* cases: since in times of difficulty and danger, more is to be apprehended from the violence and partiality of judges appointed by the crown in suits between the king and the subject, than in disputes between one individual and another to settle the metes and boundaries of private property. Our law has therefore wisely placed this strong and twofold barrier, of a presentment and a trial by jury, between the liberties of the people and the prerogatives of the crown. It was necessary for preserving the admirable balance of our constitution to vest the executive power of the laws in the prince; and yet this power may be dangerous and destructive to that very constitution, if exerted without check or control by justices of oyer and terminer occasionally named by the crown: who might then, as in France or Turkey, imprison, dispatch, or exile any man that was obnoxious to the government, by an instant declaration, that such is their will and pleasure; but the founders of the English law have, with excellent forecast, contrived, that no man should be called to answer to the king for any capital crime, unless on the preparatory accusation of twelve or more of his fellow-subjects, the grand jury; and that the truth of every accusation, whether preferred in the shape of an indictment, information, or appeal, should afterwards be confirmed by the unanimous suffrage of twelve of his equals or neighbors, indifferently chosen, and superior to all suspicion. So that the liberties of England cannot but subsist, so long as this *palladium* remains sacred and inviolate; not only from all open attacks (which none will be so hardy as to make), but also from all secret machinations, which may sap and undermine it, by introducing new and arbitrary methods of trial, by justices of the peace, commissioners of revenue, and courts of conscience. And however convenient these may appear at first (as doubtless all arbitrary powers, well executed, are the most convenient), yet let it be again remembered, that delays and little inconveniences in the forms of justice, are the price that all free nations must pay for their liberty, in more substantial matters: that these inroads on the sacred bulwark of the nation, are fundamentally opposite to the spirit of our constitution; and that though begun in trifles, the precedent may gradually increase and spread, to the utter disuse of juries in questions of the most momentous concern."—4 Bla. Com. 348.

"Trial by jury ever has been, and I trust ever will be, looked on as the glory of the English law; and if it has so great an advantage over others in regulating *civil* property, how much must that advantage be heightened, when it is applied to *criminal* cases!

It is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be affected, either in *his property, his liberty, or his person*, but by the unanimous consent of twelve of his neighbors and equals. A constitution, that I may venture to affirm has, under Providence, secured the just liberties of this nation for a long succession of ages; and therefore a celebrated French writer (Montesquieu) who concludes, that because Rome, Sparta, and Carthage, have lost their liberties, therefore those of England in time must perish, should have recollected that Rome, Sparta, and Carthage, at the time when their liberties were lost, *were strangers to trial by jury.*"

"Great as this eulogium may seem, it is no more than this admirable constitution, *when traced to its principles*, will be found in sober reason to deserve.—The impartial administration of justice, which secures both our persons and our properties, is the great end of civil society; but if that be entirely intrusted to the magistracy, a select body of men, and those generally selected by the prince, or such as enjoy the highest offices in the state, their decisions, *in spite of their own natural integrity*, will have frequently an involuntary bias towards those of their own rank and dignity: it is not to be expected from human nature, that *the few* should be always attentive to the interests and good of *the many*. On the other hand, if the power of judicature were placed at random in the hands of the multitude, their decisions would be wild and capricious, and a new rule of action would be every day established in our courts. It is wisely therefore ordered, that the principles and axioms of law, which are general propositions, flowing from abstracted reason, and not accommodated to times or to men, should be deposited in the breasts of the judges, to be occasionally applied to such facts as come properly ascertained before them. For here partiality can have little scope: the law is well known, and *is the same for all ranks and degrees*; it follows as a regular conclusion from the premises of fact pre-established. But in settling and adjusting a question of fact, when intrusted to *any single magistrate*, *partiality and injustice have an ample field to range in*; either by boldly asserting that to be proved which is not so, or by more artfully suppressing some circumstances, stretching and warping others, and distinguishing away the remainder. Here therefore a competent number of sensible and upright jurymen, chosen by lot from among those of the middle rank, will be found the best investigators of truth, and the surest guardians of public justice. For the most powerful individual in the state will be cautious of committing any flagrant invasion of another's right, when he knows that the fact of his oppression must be examined and decided by twelve indifferent

men, *not appointed till the hour of trial*; and that, when once the fact is ascertained, the law must of course redress it. This, therefore, preserves in the hands of the people that share which they ought to have in the administration of public justice, and prevents the encroachments of the more powerful and wealthy citizens. *Every new tribunal erected for the decision of facts, without the intervention of a jury (whether composed of justices of the peace, commissioners of the revenue, judges of a court of conscience, or any other standing magistrates), is a step towards establishing aristocracy, the most oppressive of absolute governments.* The feudal system, which for the sake of military subordination pursued an aristocratical plan in all its arrangements of property, had been intolerable in times of peace, had it not been *wisely counterpoised* by that privilege so universally diffused through every part of it, the trial by the feudal peers. And in every country on the continent, as the trial by the peers has been gradually disused, so the nobles have increased in power, till the state has been torn to pieces by rival factions, and oligarchy in effect has been established, though under the shadow of regal government; unless *where the miserable commons have taken shelter under absolute monarchy, as the lighter evil of the two.* And, particularly, it is a circumstance well worthy an Englishman's observation, that in Sweden the *trial by jury*, that bulwark of northern liberty, which continued in its full vigor so lately as the middle of the last century, is now fallen into disuse; and that there, though the regal power is in no country so closely limited, *yet the liberties of the commons are extinguished*, and the government is degenerated into a mere aristocracy. It is therefore, on the whole, *a duty every man owes to his country, his friend, his posterity, and himself*, to maintain to the utmost of his power this valuable constitution in all its rights; to restore it to its ancient dignity, if at all impaired by the different value of property, or otherwise deviated from its first institution; to amend it wherever it was defective; and *above all to guard with the most jealous circumspection against the introduction of new and arbitrary methods of trial*, which under a variety of *plausible pretences* may in time imperceptibly undermine this best preservative of English liberty."—3 Bla. Com. 378.

The question between us, Sir, is one of fearful, of awful import; it vitally concerns even the humblest individual of the state; on its issue, perhaps, depend the future liberties of our country. To enable every man truly to appreciate your merit as a legislator, and to pass judgment between us, I have quoted largely from authorities long recognised, respected, and revered by the first lawyers of the age. Sir Edward Coke was lord chief-justice of the

Common Pleas, and afterwards lord chief-justice of the King's Bench; Sir William Blackstone was a judge of the Court of Common Pleas. They have long since passed the portal of eternity; and have left behind them monuments of legal industry and knowledge, and of loyal attachment to our constitution: their names are recorded in the archives of their country, and will be transmitted to posterity, as her benefactors, as long as civil freedom pours her blessings on mankind. Should it be possible, that there can be amongst the venal and the vile, one man so lost to every sense of gratitude, honor, justice, and truth, as to even insinuate aught against the loyalty of the immortal commentator, I would remind him, that in the year 1758 his Commentaries had gained such universal applause, that they were thought worthy to form part of the education of our late sovereign, George the Third, then Prince of Wales, who (to his eternal honor be it remembered) ordered a handsome gratuity to be presented to the author. When I lately read the eloquent exhortation of the Lord High Admiral of England, the heir-presumptive to the British throne, to his fellow-subjects at Portsmouth to defend our civil rights, my heart beat proudly with a patriot throb; and I recorded an oath in heaven, that "if my country must fall, could I avert it, she should not be her own destroyer."

By the Common Law, *theft of the personal goods of another, of the value of twelve pence or under, was called petty larceny*; if the goods stolen were of *greater value*, it was called *grand larceny*: the first was punishable with imprisonment and whipping, the second with death. In each case the offender committed *felony*; and it was so called, not because the goods stolen were of a *greater or lesser value*, but because by the *conviction* in both instances, *his goods and chattels*, and by the *judgment* in the second, *his lands and tenements were forfeited* to the king. It afterwards became necessary to extend the protection of the law to many species of property, not then considered to be of a *personal* nature; such as ore of mines, growing timber, trees, shrubs, underwood, roots, fruits, &c. attached to the freehold; bonds, bills, notes, dogs, &c. which were considered of no intrinsic value; unreclaimed beasts, as deer, hares, &c. in which no one was considered to have a *property*, either *absolute or qualified*: hence arose the distinction between larceny at Common Law, and larceny by Statute. To this source may be traced the origin of those false principles which are the prominent features of modern legislation. Had the legislators of that day taken the Common Law as their guide, they would naturally have made the latter subject to all the incidents of the former; for this plain and obvious reason: that the consequences, with reference to the *character* of the accused, were alike in either

case. He was equally a *thief*, whether he stole a loaf of bread, or a post, pole, or rail, not before severed from the freehold. The very reputation of being such operated as a species of civil excommunication; it excluded him from the service, communion, and confidence of his neighbors: he was branded with infamy in the public estimation, and when a larceny was committed in his neighborhood, the eye of suspicion scowled on him. If the article stolen was of some value, however minute it may be, he was entitled to a trial by jury. Why? Because his character (which the constitution contemplated as equally dear to the poor man as to the rich) was at issue.—Modern legislators appear to me, in their anxiety to protect property, not only to have overlooked the chartered rights of the people, but to have wholly lost sight of the value of reputation: that important distinction between infamy in fact and infamy in law, which lawgivers should never forget, could not have occurred to their minds.

The first Act which I have found giving to justices of the peace a summary jurisdiction in larceny, is that of the 43d Eliz. chap. 7. against robbing orchards, &c. which expressly confines it to offences which were not felony by the laws of this realm. It is very probable that the acute and just observer of men and manners, our great Dramatic Bard, alluded to this vital innovation on the law in the following lines, written very soon after:

Good name in man and woman—dear, my Lord,
Is the immediate jewel of their souls:
Who steals my purse, steals trash; 'tis something, nothing;
'Twas mine, 'tis his, and has been slave to thousands;
But he that filches from me my good name
Robs me of that which not enriches him,
And makes me poor indeed.

What is it to the poor man, whether larceny be felony or not? To him it can be of little, very little import.—What goods and chattels, lands and tenements, has he to forfeit to his king? His character is his goods; his chattels, his lands; his tenements, his bread.

You take his life,

When you do take the means whereby he lives.

Other dangerous deviations from the ancient rules of law are to be found since that period: 1st. "*That of constituting the offence, felony or not, according to the value of the articles stolen.*" Is this, Sir, to be defended on principle? If so, where do you find it?

I cannot find it; 'tis not in the charter.

As I have before shown, the value was material only with reference to the punishment; now it is made a pretext for depriving the sub-

ject of his trial by his peers. 2dly. In some instances it now depends on the number of previous convictions by justices of the peace. If, Sir, three offences constitute felony, and the offender is tried and convicted for the two first before a summary tribunal, and those convictions are given in evidence on the third trial, is he not in fact tried for felony otherwise than by a jury of his country? Are not all the parts equal to the whole? Would you sacrifice a man at this shrine of subtlety and sophistry, and then call it justice? Look at the numerous instances, in your Act, by which power is vested in one or two magistrates to hear and determine larcenies. Can any man's character be now safe when the kingdom teems with associations offering rewards on the conviction of offenders? Do they not open the flood-gates of pride, prejudice, malice, and revenge; and expose to all their fury that class of the community, whose poverty precludes them from all power of obtaining revision of error, or redress of injury?—For a grand jury, a petty jury, and a judge experienced in the laws of his country, all under the most solemn obligation to act justly, are substituted one or two individuals, whose habits of life afford not even a probable presumption that they possess one judicial qualification.—Can you call this amending the laws of England? England and England's judges must feel deeply indebted to you for such a tribute to their worth, wisdom, and integrity. Insecure, indeed, must be the state of society, when the character and personal safety of every member of it depend on the fallible judgment of one of his fellow-men, who may be his open, or, which is worse, his secret enemy. You may say, "I found these laws in the statute-book, and consolidated them:" that, Sir, is true with respect to most of them; but, it is equally true, that you procured their repeal and likewise their re-enactment. This is the title of your Act:—"An Act for consolidating and amending the Laws in England relative to Larceny and other Offences connected therewith." One of your avowed objects was to amend the law. How is it, Sir, that instead of amending this alarming and rapidly-increasing code, which, according to Sir Edward Coke, is "against the ancient and fundamental law and in the face thereof," and which Lord Holt and Sir William Blackstone declared to be "fundamentally opposite to the spirit of our constitution," which no lawyer in the present day will be hardy enough to deny, you procure the legislative sanction not only for its extension, but likewise for its perpetuity?

By the second section of your Act it is enacted:—"That the distinction between grand larceny and petty larceny, shall be abolished; and every larceny, whatever be the value of the property stolen, shall be deemed to be of the same nature, and shall

be subject to the same incidents in all respects as grand larceny was *before the commencement of this Act*; and every court, whose power as to the trial of larceny was before the commencement of this Act limited to petty larceny, shall have power to try every case of larceny, the punishment of which cannot exceed the power hereinafter-mentioned for simple larceny; and also to try all *accessaries* to such larceny."

Here, Sir, we see a distinction which has existed at least *one thousand years*; a distinction founded in wisdom and experience, in one rash moment swept away. Will you say that your object is to *soften the severity of the Common Law*?

Quicquid id est; timeo Danaos et dona ferentes.

If mercy be your plea, would you have punished with *seven years' transportation* the receiver of stolen goods of *one penny value*, which before was both by the Common and Statute Law punishable only with fine, imprisonment, or whipping? When transportation was first extended to *petty larceny*, one reason for it avowed by the legislature was, "*that the Colonies were in want of servants*." Perhaps, Sir, the Emigration Committee may suggest another reason, *nearer home*.—I know of but one principle on which it can be justified, and that is, "when it becomes necessary for the preservation of our property."

The Common Law has been charged with being too rigorous, because the crime of grand larceny was *punishable with death*. Would you thence infer that all offenders suffered death? Does not the severity of a law consist more, Sir, in its administration and execution, than in its enactment? What! if posterity tried our present code by such a test?—What! if they inferred that in all cases now made capital, the offender suffered death?—They would turn with disgust from the sanguinary catalogue, and consider us rather as murderers than men. You may say, that they could not possibly make such a mistake, because they would see how often such a punishment is commuted for transportation. Read, Sir, the history of your country with attention, and you will find that our ancestors were not less humane in that respect than their descendants, who have even accused them of carrying the principle of *commutation too far*? The eyes of your country were fixed on you, as the improver of her criminal code. You were in the path to fame, to immortality;

What tempting aspect drew you from the road?

No lawyer yourself, were you deceived and misled by those who are? If so, proclaim their names, that they with you may

Pursue the triumph, and partake the gale.

NONE but those who possess some little knowledge of the history and laws of their country, can distinctly see the effect and object of this, to others apparently an unimportant enactment. When I look back to the fatal attempt made in the reign of Henry the Seventh, to extend the summary jurisdiction of *justices of the peace* to all offences *short of felony*; when I consider that succeeding legislators have extended it to *larcenies*, which, *even then*, was not attempted; that scarcely a session of parliament has been held during the last century, in which it has not received a fearful accession of power; that the line of demarcation is, *as it then was*, drawn precisely between *felony* and *misdemeanor*; and that the legislature now says, "that to extend such power to *larcenies* we will call them *felonies* no more"—for such is my construction of your Act—it is almost impossible that a *lawyer* can mistake the object: but when, in addition to all these considerations, I find that the immortal commentator's love of his country inspired him with the spirit of *prophecy*; that he foresaw and foretold *that such an attempt would be made*, it is, Sir, to me as clear as if it had been written with a sunbeam, even in the preamble of your Act. This is his prophecy:—"It" (meaning this jurisdiction) "*has of late*" (*sixty years ago, Sir,*) "*been so far extended as, if a timely check be not given, to threaten the disuse of our admirable and truly English trial by jury, unless in capital cases.*" That truly great unknown, Junius, exhorted and conjured his countrymen never to suffer an invasion of their political constitution, however minute the instance may appear, to pass by, without a determined, persevering resistance. "One precedent," said he, "creates another. They soon accumulate and constitute law. What yesterday was fact, to-day is doctrine. Examples are supposed to justify the most dangerous measures, and where they do not *suit exactly*, the defect is supplied by *analogy*."

Looking to the great consummation of your *glorious work*, you need not fear that you will be driven to *analogy* for its justification. The example *will suit exactly*. For if a reason for either could be drawn from our constitution, it would apply equally well to the extension of this jurisdiction to *larcenies at Common Law as to larcenies by Statute*. Let me not be misunderstood in quoting the language of this great man. *By determined persevering resistance*, he meant opposition *by the legal and constitutional mode of petition*. He well knew this important truth, "that the man who, whilst the throne and the doors of parliament are opened to the petitions of the people, resorts to other means of obtaining redress, is not the *defender* of social order; but its *disturber*—not the *friend* of, but a *traitor* to his country."

I have heard this alteration of the Common Law attempted to

be justified, under a pretence that has not even plausibility to recommend it—"that it will abridge the labor of the judges." This, indeed, is the age of invention. I have seen and read of many machines for the abridgment of human labor, but this surpasses all.—What! would you, to abridge the labor of *twelve men*, abridge the liberties of *millions*? To say that they would accept of ease obtained by such a sacrifice would be, I hope, an atrocious calumny on that venerable body of men, whom I was taught to regard, and do regard next to *trial by jury* and *the liberty of the press*, as the sheet-anchor of the state. We have now no Henry the Seventh on the throne of England; and I would fearlessly stake my life on it, that the effect and object of this Act were never explained, nor its machinery unmasked, to our monarch.

Had Erskine lived, though stripped of power,
A watchman on the lonely tower,
His thrilling trump had roused the land,
When fraud or danger was at hand:

His trumpet's silver sound was still
The warder silent on the hill.

There is another substantial, fatal objection to this jurisdiction, which its boldest advocates can never surmount. They cannot possibly deny "*that every man is entitled to be tried according to the law of the land.*" In the law-reports of the last fifty years you will find, Sir, reiterated declarations of our judges, "*that it is their bounden duty to preserve steady and uniform those rules of evidence which are the safeguards of our lives, our liberties, and our property.*" Formerly, twenty years' study was considered necessary to qualify a person for the judgment-seat; now, *as if by magic*, a man of sufficient estate is converted into a judge. His name being in the commission of the peace, he takes out a writ, called "*Dedimus potestatem.*" Power I admit it gives, but nothing else. Thus, on a presumption notoriously opposed to fact, he receives a license to try, fine, imprison, and transport his equals; if required, he must prove his qualification *by estate*: is there no other *qualification* necessary? If not, why are the lawyers and judges of England doomed to ceaseless toil and care? When justices of the peace were first appointed, they were so called because they were its *conservators* only. Had any man then foretold their *present power*, he would have been treated as a madman. The *Star-chamber* never possessed, nor I believe ever arrogated to itself, so much, even in the full tide of its iniquity. Its members were the judges of the law and the fact; so now are *justices of the peace*. The former were judges also of the punishment, when it extended not to life or member; so now are *justices of the peace*, within the prescribed

limits of your Act. There was but one Star-chamber, which was fixed at Westminster: hundreds of these *summary courts* may be at work throughout the land, from dawn of day to set of sun; and it is a melancholy truth, that one of those powers, against which the complaints were loud and deep, and which eventually led to the abolition of that court, is now revived and legalised; that is "the receiving informations in lieu of indictments at the assizes and sessions of the peace." Are our liberties and property less dear to us than were those of our forefathers? Are men become more honest? Are our laws less intricate than theirs? Is human intellect so improved that a knowledge of them can be the result of either intuition or inspiration? In the wisdom, integrity, and experience of the judge, the accused finds the protection of the law: take that away, even *trial by jury* may be perverted to purposes of oppression, and be turned into a curse rather than a blessing. Jurors and judges are but men, alike subject to prejudice and error; but in neither have I ever seen *corruption*. In their mutually counterpoising power consists their perfection. On trials for offences against the *game-laws*, I have sometimes seen the consciences of the former swinging from their moorings, and only brought up by the solemn appeal of the judge to the oath by which they had sworn to find a verdict *according to the evidence*. Surely there must be *something wrong*, very wrong, when the feelings of men are so strongly opposed to their duties. Judges too, I have seen, enter on inquiries under prepossessions which would to a person unacquainted with the workings of an honorable mind, sincere in the search of truth, appear almost insurmountable: during the gradual development of the case, I have oft watched, with almost breathless anxiety, their every word and look; I have afterwards heard them avow their prejudices, and hail with warm welcome the approach of truth. Jealous, as I have ever been, of the least invasion of my country's rights, *particularly in the administration of justice*, there have been moments when in grateful admiration I could with the Poet exclaim,

See Justice judging there in human shape!

The bare contemplation of such a scene is calculated to teach even the sufferer resignation, and to turn a traitor from his treason. Proud and happy should I be, could I bestow a similar tribute on the subordinate tribunals; but truth forbids me. Before them the accused is not even within the pale of the law; because not one in fifty of those who compose them are acquainted with that branch of our jurisprudence out of which incidentally arise an infinite number of questions, all materially affecting his *liberty and his property*. If he is not judged in the spirit of, and in conformity with, the rules of evidence, *he has not a legal trial*. On the principle,

therefore, that the judgments against Sydney and Russel were reversed, and the execution of the latter recorded as a judicial murder, every imprisonment of a man under such circumstances is judicial tyranny; every pound taken from his pocket a judicial robbery.

One word more, Sir, *on the Charter*. When a man is convicted by two justices in a penalty, which he is obliged to sell his *forty-shilling freehold* to pay, is he not *disseised of his freehold and his franchise, otherwise than by the judgment of his peers, and by the law of the land?*

When on such a judgment he is imprisoned, is he not imprisoned *otherwise than by the judgment of his peers and by the law of the land?*

When on the judgment of such a tribunal a man is convicted of an offence against the revenue-laws, and sent on board a ship destined to go wherever the public service requires, *is he not exiled otherwise than by the judgment of his peers and by the law of the land?*

A man may *at the suit of the king*, by this summary tribunal, be convicted in penalties amounting to *hundreds of pounds*; yet if he had occasion to sue his debtor for *five pounds*, he must spend *fifty* in law-proceedings: his claim must be submitted to a *jury* and a *judge*, even though he possessed under the hand of the defendant *an admission of its justice*. Did this, Sir, never in the hour of legislation strike you as a matchless specimen of *equal law and equal rights*? Such are the absurdities consequent on a deviation from the Common Law. If there is aught in it too rigorous, in the name of humanity soften it; but take not from us, both in the hour of *accusation* and of *trial*, its protective justice and mercy.

A man may be now dragged from his home, and convicted as a thief or criminal receiver of stolen goods, before a tribunal composed (as our magistracy is now constituted) of the priest of his own and the adjoining parish, who, in addition to six or twelve months' imprisonment, may sentence him to public or even to private torture. Let the proud islander no longer taunt ill-fated Spain with her inquisition. Her Cortes were once like the Commons of England, the representatives of a brave and independent people. Peruse her history; it will not require the lynx's-beam there to discover why she has now ceased to be free. If we suffer "trial by jury" to be frittered away, the liberty of the press will soon follow it; and the fate of Spain's brave exiles, now pining in our streets, may, ere the close of this century, be the fate of our descendants. If you, Sir, do not shudder at this thought, you possess either less patriotism or more nerve than the man who now ad-

dresses you. Go, visit the shores of the Baltic, where we are taught to believe that "trial by jury" first dawned on a benighted world. Losing its genial ray, their inhabitants became serfs and slaves. You may there see, even "*in the rotten state of Denmark*," a pillar erected to commemorate the extension of freedom to the husbandman, on which is the following noble inscription: "The king, being convinced that civil liberty, directed by just laws, inspires the love of our country with courage to defend it, the desire of information, a taste for labor, and the hope of happiness, has therefore commanded that slavery should be abolished, and that order and dispatch should preside at the execution of all rustic laws; that the husbandman, being free, courageous, enlightened, laborious, and good, may in future become and be regarded as an estimable and happy citizen." The prince royal laid the foundation stone in 1792, and the inscription terms him "*The Son of the King, and the Friend of the People*."

Cast your eyes on the neighboring monarchy (Prussia), containing a brave population, anxiously awaiting the blessing of liberal institutions, as the reward of their devotion to the throne, and loyally petitioning for the performance of promises, made to them in the hour of adversity, which in the day of prosperity are remembered no more; then ask your heart what is the state of your own country? It will tell you that she is scarcely emerged from a conflict in which she was the rallying point and bulwark of affrighted Europe; that her wounds are not yet closed; that in every pound of bread her peasant eats he is paying the price of that which has been called Europe's freedom. *In such a moment* shall that sun, which has guided us to empire and to glory, be shorn of almost the only beam that pierced the humble cot, and made its inmates proud even under the pangs of poverty? England stood firm

Amidst the crash of nations.

On her soil were collected the scattered elements of freedom. Would you destroy the sacred ark? Would you, boy-like, run to pull down this rainbow of the moral world, this pledge from man to man, from generation to generation, that the earth shall be deluged with tyranny no more? God forbid! But, sir, you have passed the Rubicon. Return and thank your God and your forefathers that the constitution under which you live still retains the power of self-reparation, without endangering the peace, or disturbing the order of society. Your country will yet receive you, for the good you have done: she will forgive your errors; and but for that record which is now part of her history, would probably forget them. The moment of atonement is not to an honorable mind one of self-abasement. I could name to you an exalted judicial character,

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who, by the goodness of heart, and true greatness of mind which he evinced in the atonement of a public error, has raised himself, in my humble estimation, almost above humanity. In the senate manfully avow your error. Forget not that, as a representative of the people, you are "the trustee, and not the owner of the estate; that you cannot alienate, you cannot waste it." Defend the prerogative of the crown and the privileges of the people with equal courage and integrity, remembering that they must stand or fall together. Devote your influence and your talent to the revision of the subordinate courts of justice, and to the effacing this foul blot from our otherwise admirable constitution. Advocate "trial by jury," even to the confirmation of that great charter which has been, in some of the most trying and awful periods of our history, set up as a general banner for the union of all classes of the people. Transmit it to posterity as a monument of civil freedom and royal gratitude. You will thereby fix your sovereign more firmly in the affections of his subjects: generations now unborn will rank his reign with those of Alfred the Great and of the first Edward; and in this the evening of his truly eventful day his sun may yet set in glory.

CHARLES BIRD.

REMARKS
ON THE
STATE OF THE CORN QUESTION
AFTER THE PARLIAMENTARY DISCUSSIONS OF 1827;
BEING AN APPENDIX TO
“OBSERVATIONS ON THE CORN LAWS,”
ADDRESSED TO
W. W. WHITMORE, Esq., M. P.
IN CONSEQUENCE OF HIS LETTER TO THE ELECTORS OF
BRIDGENORTH.¹
ORIGINAL
LONDON:—1828.

IN a letter to Mr. Whitmore on the subject of the corn laws, which was published about twelve months since, and was honored with a place in the Pamphleteer for September last, I stated it as my opinion, that a duty of not less than 20s. per quarter on the importation of wheat, can, in the first instance, be regarded as a sufficient protection to the British agriculturist. This is the sum which the late lamented Premier, Mr. Canning, recommended on the part of government, on the 1st of March 1827, with the very important modification, that when the price of wheat should be above or below 60s. per quarter, the duty should fall, or rise, in a regular progression, by the diminution or addition of 2s. duty for every 1s. that the price of wheat might either rise or fall. When the price had risen to 70s., the duty was to be reduced to 1s. per quarter, at which it was to continue.

The propositions which were thus made, relieved the minds of agriculturists from the apprehensions which they entertained, that the small protecting duty, for which Mr. Jacob, (who was to a certain degree an official organ,) Mr. Whitmore, and others contended, might receive the sanction and support of government; and the bill founded on Mr. Canning's propositions was adopted by the lower house. An endeavor made by Mr. Whitmore, to lower, by 10s., the standard at which the duty of 20s. was to commence,

¹ Mr. Whitmore's letter was inserted in the Pamphleteer for September last.

was negatived by a majority of 335 to 50; while a motion of Mr. Bankes, to raise the standard to 64s. was negatived by 229 to 160. Mr. Hume's proposition, to establish a duty on the importation of wheat, of 15s. per quarter in the first instance, to be diminished 1s. per quarter per annum till it should reach 10s., at which rate it should permanently continue, was negatived by a majority of 229 to 16.

In the House of Lords the bill passed through all its stages up to the third reading, and several amendments were made in it. But in consequence of one of those amendments being considered by ministers as affecting the character of the bill to a greater extent than they thought themselves justified in approving, the bill was not pressed by Lord Goderich to a third reading, and therefore fell to the ground. This amendment was moved by the Duke of Wellington on the 1st of June, in consequence, as it would appear, of his having misunderstood an expression contained in a letter of Mr. Huskisson. Its object was to prevent the admission, for home consumption, of any wheat which should have been placed in bond after the passing of this act, so long as the average price of wheat should be less than 66s. per quarter. The wheat which was in bond at the passing of this act, (and which amounted, as Mr. Canning stated, to 560,000 quarters,) could be taken out on paying the necessary duty; but any wheat which might subsequently be placed in bond, however low the average price might be at the time, could not, according to this amendment, be liberated for home consumption, even on paying the duty, till the average price amounted to 66s. per quarter.¹

During the discussions on this bill in the House of Lords two points were decided by their lordships; one, by a majority of 82 to 39, that a prohibitory duty was preferable to a real prohibition; the other, without a division, that the standard at which the duty of 20s. should commence, should not be raised from 60s. to 64s.²

¹ "Provided always, that no wheat which shall have been placed under bond to his Majesty, his heirs, or successors, in any ship or warehouse, after the passing of this act, shall be entered for home consumption, from the ship or warehouse in which such wheat shall have been so placed under bond, so long as the average price of wheat, as settled by virtue of this act, shall be less than 66s. per quarter."—Duke of Wellington's amendment to the Bill as amended by the Committee, intituled, "An act for granting duties or customs on corn," p. 3.

² Lord Malmesbury's proposition was, that the standard should be raised from 62s. to 66s.; but this was on the calculation of the imperial measure, which answered to 60s., and 64s. of the Winchester. It was therefore the same as that which was moved in the lower house by Mr. Bankes. As the new, or imperial weights and measures, had received the sanction of parlia-

In consequence of this bill being lost, another was introduced by Mr. Canning, on June 18th, which passed into a law. By this second bill, permission was given to withdraw from bond, for home consumption, at any time before the 1st of May next, on payment of the same duties as would have been payable had the original bill become a law, whatever foreign corn was in warehouse at the time of passing the bill, or might be placed in warehouse previously to the following July; and also whatever corn might be received from Canada, or other British possessions out of Europe, up to the 1st of May next.¹

According to the calculations made by Mr. Jacob and Mr. Whitmore, as to the quantities of wheat likely to be annually imported in consequence of an alteration in the corn laws, it does not appear that any disadvantage, as far as the public is concerned, could be sustained by substituting the temporary for the permanent measure; for the whole quantity thus permitted to be brought into the market was fully equal to what the agriculturists were informed would be annually imported in consequence of the alteration proposed. I venture to entertain doubts, however, as to the propriety of not permitting the corn bill to go on to a third reading. If it had passed into a law during the last session, even with the Duke of Wellington's amendment annexed to it, it would have brought into immediate operation the principle on which so large a majority of both houses was agreed, that of substituting a protecting duty for absolute prohibition. This, indeed, appeared to be the great characteristic of the measure; and the discussions of the present session, in the event of the bill having been carried in the last, would, instead of embracing the entire subject of

ment, and were in operation in the country, it was thought right to accommodate the schedule of duties to them, which had been originally calculated on the Winchester measure. The following is therefore the proposition of the bill, as far as wheat is concerned; and the other parts of the schedule are equally accommodated to the imperial standard.

"If imported from any foreign country:

"WHEAT.—Whenever the average price of wheat, made up and published in manner required by law, shall be 62s. and under 63s. the quarter, the duty shall be for every quarter £1:0:8.

"And in respect of every integral shilling by which such price shall be above 62s., such duty shall be decreased by 2s. until such price shall be 72s.

"Whenever such price shall be at or above 72s. the duty shall be for every quarter 1s.

"Whenever such price shall be under 62s. and not under 61s. the duty shall be for every quarter £1:2:8.

"And in respect of every integral shilling, or any part of each integral shilling, by which such price shall be under 61s., such duty shall be increased by 2s."—Bill as amended, p. 8.

¹ The latter description of corn was to pay 5s. duty per quarter only, up to 67½ imperial measure, and afterwards 6d. per quarter.

the corn laws, and requiring the whole ground to be gone over anew, at the risk of producing much irritation, both in and out of parliament, have been limited to the question of allowing wheat, when once admitted into bond, to be taken out of it on paying the apportioned duty, just as if it had been transmitted from a foreign country, and brought immediately to market.

The Duke of Wellington's amendment left the bonding system totally unaffected, both in its application to merchandise generally, and to every description of grain except wheat. It did not prevent the corn already in bond from being brought to market on paying the duty. It did not interfere with the immediate sale of foreign wheat; nor did it preclude the reshipment of wheat in bond, so as to bring it back for immediate introduction into our markets, which could be done at very little increase of expense. These circumstances made it but little operative in limiting the introduction of foreign grain, which seemed to be its particular object.

But if the propriety of admitting wheat at all times into the English markets from foreign countries, under a protecting duty, is once conceded (and there seems to be very little difference of opinion on this subject in either house of parliament), it does not appear that the bonding of wheat can have any injurious influence on the agriculture of the country; because it is equally the interest of the merchant, who has warehoused his corn, as it is of the farmer, who has it in his barn, stackyard, or granary, to obtain as high a price for it as possible. If the importer of corn had no object but to sell it for whatever price he could obtain, he would do so immediately on its importation, without being at the trouble and expense of depositing it in a warehouse. He bonds it, because he expects it to produce a better price at some future period, than he could obtain if he pressed it on the market, without any reference to the stock offered for sale at the time. In this way he acts the same part, as to foreign corn, which the corn merchant, or the opulent farmer does, as to English; and by looking to the state of the market, and apportioning the supply to the demand, he manages so as to prevent that depression of price, which forced sales must necessarily occasion. He has no object in extensively accumulating foreign produce, as was the case during absolute prohibition, when he prepared himself for pouncing on the market, with all the corn he could obtain, as soon as the ports were open. His interest, indeed, is doubly concerned in obtaining a liberal price for his grain; first, because he would get more money for the article; and second, because he would save a certain amount of duty, which increases, as must be observed, two shillings with every depression of one. If the possessor of bonded corn therefore should, in his mode of bringing

it to market, injure the English farmer, he would, in a much greater proportion, affect his own pecuniary interests. When we unite to all these considerations the important national one, of the facility with which warehouses can be obtained in Holland, Belgium, and France, from which corn can be shipped into this country, and brought to market at two or three days' notice, and the loss which would arise to our countrymen from their warehouses being unoccupied, and their labor, connected with the preservation of bonded corn, unemployed, it may admit of doubt, whether an amendment, in every respect similar to that which occasioned the loss of the bill, will again be brought forward.

On a general view of the feelings which were evinced by ministers during the discussions on the corn bill, last year, it appears to be evident, that while there was a strong disposition on their part to open, as far as could be done with safety, the trade in corn, there was also every determination to protect the interests of agriculture. Mr. Canning, in his opening speech stated, that it was the object of the bill to prevent ruinous fluctuations in price; and that by its means "the market will assume such a steadiness, that instead of a fluctuation between 112s. at one time, and 38s. at another, the vibrations will be found to be limited within *the small circle of 55s. to 65s.*"—Mr. Huskisson expressed himself as being convinced that it would be "a great misfortune for this country, at any time, to depend too largely for its supply of corn on other countries;" and that "such a state of things might occasion great perplexity in our councils, and might prove a great source of national weakness."

The same favorable feelings towards agriculture were also cognisable on the part of other gentlemen, whose opinions carried much weight with them, though they were not so influential as those of the ministers of the country.—Mr. Whitmore concluded, that the annual supply of wheat capable of being furnished from abroad, could not exceed an average of 600,000 quarters; and while he deprecated the idea of driving the poor land of this country out of cultivation, was of opinion, that this could not happen to any land then cultivated with advantage, were even the small protecting duty only imposed which he deemed necessary.—Mr. Tooke expressed it as his belief, when he gave his evidence before the committee of the House of Commons, in 1821, that we might maintain the competition with foreigners, consistently with preserving our extent of land in cultivation, and with no diminution in the employment of our agricultural laborers. He was indeed of opinion, that the low prices of corn, in many parts of the continent, were the mere effects of a want of demand; and that, if a free trade were established, the prices there would be "*very deci*

dedly higher, while those with us would only be *somewhat lower* than the present range."

With this feeling for the interests of agriculture, in which the present administration unquestionably joins, the measure of a free importation of corn, with protecting duties, merits a fair trial. It must, however, as far as the amount of duties is concerned, be viewed only as an experiment, and not as a final and permanent arrangement; for if the prices of corn should differ materially from those which are anticipated as the consequences of the bill, and be either usually above, or usually below the standard agreed on, there would then be an obvious propriety in reconsidering the subject, and in diminishing, or increasing the duties, as the circumstances might render necessary. Should the fears of the British agriculturist, as to the extent of importation, and its depressing operation on the markets of this country be realised, he would have a right to look to parliament for redress; for parliament legislates on the supposition of a certain probable amount of importation, and of such amount being compatible with the preservation of corn at a certain remunerating standard. The probable amount of importation, and the cost at which corn can be raised in foreign countries, and brought here, so as to allow a fair profit on the speculation, are circumstances which it is very difficult to ascertain. I expressed my hopes, in my letter to Mr. Whitmore, that the inquiries which government very properly instituted on these subjects were still going on; and I am happy in finding, by some of the newspaper reports, that Mr. Jacob has been again employed in an agricultural survey in the north of Europe, for the purpose of elucidating these points. I likewise stated it as my opinion, from the deductions which were made, both by him and Mr. Whitmore, as to the probable quantity of wheat capable of being annually imported to this country from the continent, that the good effects of such importation, and of the corresponding portion of our manufactures which would be exported in consequence, were very much overrated. I was disposed to take Mr. Jacob's estimates of the exports of 1810 as sufficiently near their present amount, for the purpose of argument. I find, however, that since that period the exports have been considerably less, being on an average of the last three years, about thirty-five millions in declared, or real value.¹ Mr. Whitmore's estimate of an annual importation of 600,000 quarters of wheat costing £720,000 would, under this more correct view of the subject, be still only a fortieth part of the whole exports of the country; which

¹ Between the years 1793 and 1816 the annual average exports were pretty nearly thirty-five millions. The calculation of that period, as mentioned in my letter to Mr. Whitmore, will therefore be a sixtieth, instead of a seventy-fifth of the exports of the country.

is assuredly totally inadequate to produce the important benefits looked to by a repeal of the corn laws: and if the amount of importation should prove much greater, then agriculturists would have a just right to complain, that they had not the data accurately placed before them, on which to form their opinions on the expediency of the measures recommended for their adoption.

Mr. Tooke, it may also be observed, seems, with Mr. Jacob and Mr. Whitmore, to carry his belief of the quantity of corn kept back by the prohibitory nature of our corn laws, farther than appears to be reconcileable with his ideas of the trifling operation of importation, both on the price of grain in this country, and on the quantity of land employed in cultivating it. He speaks of the great hindrance to manufactures, without any benefit to agriculture, which arises from "keeping a considerable part of our manufactures on hand, which would be exported, if the foreign consumer had the means of paying for them in corn;" and states, that there appeared to be "a quantity of corn on one side of an impenetrable barrier, and a quantity of manufactures on the other, which would naturally be interchanged, if it were not for the artificial hindrance occasioned by the present system."¹ But if the importation of wheat, instead of being limited to the amount contemplated by Mr. Whitmore and Mr. Jacob, were to extend greatly beyond that quantity, so as to answer to the ideas of extent which Mr. Tooke's mode of expression would seem to justify, then it appears to be impossible that such a large augmentation to our annual importation could take place, except in years of great scarcity, compatibly with affecting, in no way, the ground cultivated, and the labor employed in this country; both which he expresses himself as desirous of preserving at their present level.

More than seven months have now elapsed since Mr. Canning's temporary bill for permitting bonded corn to come into home consumption has been in operation; and it is proper to advert to the experience which has been obtained, during this period, of the highest amount of duty which will admit of corn being brought into the home market.

At the time when Mr. Canning introduced this bill into the House of Commons there were 560,000 quarters of wheat in bond. Up to the 1st day of last July 73,680 quarters more were imported, making the whole quantity liable to the operation of the act, 633,680 quarters. Of this quantity 114,226 quarters 4 bushels remained in bond on the 1st of February, and consequently 519,453 quarters 4 bushels have been admitted for home

¹ House of Commons: report of 1821 on the Corn Laws, p. 230.

consumption, on the duties payable at the different periods when this quantity was withdrawn from bond.

The quantity of wheat existing in bond at the beginning of every month, in quarters and bushels, with the quantity sold, the duty paid, and the average price by the imperial and Winchester quarter on which such duty was paid, will appear from the annexed table.

1827.	In bond on the 1st of each month.	Taken out of bond in each month.	Duty paid.	Average price Imperial qr.	Average price Winchesterqr.
July	632,680. 0	124,522. 1	22s. 8d.	61s. and under 62s.	59s. and under 60s.
August	509,147. 7	347,041. 2	$\frac{1}{2}$ at 22. 8.	61—62.	59—60.
			$\frac{1}{2}$ at 24. 8.	60—61.	58—59.
September	162,106. 5	42,747. 0	$\frac{1}{2}$ at 24. 8.	60—61.	58—59.
			$\frac{1}{2}$ at 26. 8.	59—60.	57—58.
October	119,359. 5	999. 2	28. 8. to 31. 8.	58—59. to 54—55.	56—57. to 52—53.
November	118,360. 3	1,697. 7	38. 8. and 40. 8.	53—54. and 62—53.	51—52. and 50—51.
			Average of next 3 months.		
February	114,226. 4	1,344. 5	40. 8. to 42. 8.	52—53. to 51—52.	50—51. to 49—50.

From this table it appears that about 390,000 quarters were sold at a duty of 22s. 8d. per imperial quarter; about 115,000 quarters at a duty of 24s. 8d.; and about 8,000 quarters at a duty of 26s. 8d.; the average price of the Winchester quarter being, at those periods, from between 59s. and 60s. to between 57s. and 58s. The duty has since gradually risen to 42s. 8d. per imperial quarter; the average price of the Winchester quarter having fallen to below 50s. But the quantities removed from bond, under such high duties, have been so small, as to show that they have operated as a prohibition. It may indeed appear singular that any wheat at all should have been withdrawn under those duties; but I am informed by a very accurate and intelligent friend, that duties have been paid on the small quantities mentioned, in consequence only of the quantities taken out of bond, at former periods, having not been all accounted for; and therefore requiring, at the time of a final settlement, the duties to be paid upon them which attached to the period of such settlement.

A consideration of this table will also evince, that government and the agriculturists were completely justified in requiring a high duty, instead of the lower ones which were so earnestly pressed for; and that so little was the duty of 20s. per quarter on wheat at 60s. per Winchester quarter, from acting as a prohibition, that

bonded wheat was freely withdrawn at nearly 5s. per quarter higher. It is likewise to be observed, that under this preparatory measure (as it may be termed) the average price of wheat has fallen more than 5s. below what we were informed by Mr. Canning would be the utmost depression of price which would ever take place under the operation of the corn bill; and one half more than the whole extent of oscillation, in which he conceived that prices would fluctuate. If such a depression of price has occurred under so cautious an admission of foreign corn, most serious disadvantages would, in all probability, have arisen with less attention to the formation of duties; and particularly if the ingenious and excellent plan had not been adopted, of making duties rise, when prices fall; and fall, when they rise.

It is, however, fair to admit, that as much capital was long locked up by the quantity of corn remaining in bond, the want of money might induce the holders of such corn to part with it at a much higher duty, and therefore lower price, than could be afforded in order to make the foreign trade in corn worth carrying on. Hence it is only an actual experience of importation which can be the proper test of the lowest price at which corn can be grown abroad, so as to be imported into this country with profit. But then, on the other hand, the accumulation which exists to a certain extent in foreign ports will, in addition to the usual amount of disposable annual production, create in the possessor a disposition to part with corn at a lower than ordinary rate, for the first year or two after our ports may be open, and thus create a temporary glut, against the operation of which it is necessary to provide.—If an opinion may be formed of what may be ultimately determined relative to the corn laws, from the occurrences of the last session of parliament, as well as from the notifications already given by ministers in the present, it is exceedingly probable that importation, with a protecting duty, will be the measure finally adopted; and it will be a fortunate result of such measure, if it remove, in a material degree, that irritation, now fortunately subsiding, which has so long existed between the advocates for the agricultural, and for the commercial view of the corn laws.

With regard to the quantum of protection necessary, it would appear, from the experience obtained since the 1st of July, that there cannot be the smallest ground for having the protecting duties put on a lower scale than was contemplated by Mr. Canning's bill. The evidence, indeed, as far as it goes, is in favor of a higher.

There is one circumstance connected with the late parliamentary discussions on the corn bill which demands a portion of attention. An idea was entertained by some noble lords, in the upper house, that the corn bill, as a money bill, must be returned to

the Commons, with a simple assent or dissent, and without any alteration or amendment being made in it. In cases where the House of Lords has made any alterations in money bills, to which the Commons could not, with a due regard to their privileges assent, it has, I believe, been usual for the amended bill to be rejected, and a new one brought in, with the amendments (if they were not considered as objectionable by the Commons) making a part of it. A similar plan might therefore, it may be imagined, have been adopted in the case of the corn bill; for it is difficult to conceive that the upper house, in considering a measure which concerns every individual member so seriously, could feel itself withheld from introducing such amendments into it as might be deemed necessary for its improvement.

The privilege of the House of Commons is to furnish the national supplies; and it is upon this ground, it is presumed, that the jealousy of any interference with the details of a *money bill* has originated. But the corn bill was not, like an ordinary bill to raise money for the exigencies of the state, brought in as a measure of mere finance. Its object was to lay open the trade in corn, as far as might be compatible with the safety of the British agriculturist. This consideration of its nature and objects might, indeed, seem to afford a more appropriate title for the bill than that by which it was designated, "An act for granting duties of customs on corn;" for it granted duties in an accessory way, and merely because there was no other method of securely effecting the prime object which the legislature had in view in entertaining it. I would submit, therefore, that it can scarcely be regarded as an improper interference with the privileges of the lower house, for the lords to make any amendments which they may deem advisable in such a bill; but, on the other hand, should be inclined to think that there is no measure in which the concurrent wisdom of both houses of parliament is more necessary for its efficient and satisfactory arrangement.

February 10, 1827.

OBSERVATIONS

ON

THE POWER

EXERCISED BY

THE COURT OF CHANCERY

OF

DEPRIVING A FATHER OF THE CUSTODY OF HIS CHILDREN.

By JOHN BEAMES, BARRISTER-AT-LAW, F.A.S.

LONDON:—1828.

THE decision pronounced in a recent and memorable case is, that "the court of chancery has the power of depriving a father of the custody of his children." This decision was pronounced by a judge of great experience and distinguished learning, and he professes to rest his judgment on the admitted doctrine of the court, and disclaims the exercise of any but a power sanctioned by previous determinations.

The decision itself, when its consequences on society are contemplated, is one of the most important ever pronounced. This will scarcely be disputed, and, if admitted, it justifies an examination into the authorities on which the decision itself is supposed to rest.

But we cannot proceed to examine the authorities without adverting to a question, which, if not strictly speaking preliminary, has been generally mixed up with the discussion: we allude to the question, whether the court of chancery has the *general* superintendence of infants. Assuming such jurisdiction as the basis of their argument, the advocates for the power which was exercised in the case to which we have adverted, do not hesitate in coming to the conclusion that the chancellor has authority to deprive a father of the custody of his children.

With respect to the *general* power of the chancellor to appoint guardians to infants, *Mr. Hargrave* might very justly say, *that it is not very easy to state how this jurisdiction was acquired by the chancellor.* (*Co. Litt. Not. to 89 a.*)

It has, however, been attempted to be supported by various arguments.

In the *first* place, the power over infants has been compared to

that over idiots and lunatics; and assuming the chancellor's authority over the latter, it has been rather hastily concluded that it established his power over infants.

"The king has a right to take care of infants, lunatics, and idiots, that cannot take care of themselves, and this cannot be exercised otherwise than by appointing them proper curators or committees." So *Fleta*, cap. 9, fol. 4, *de Tutelis*, speaking of infants, "*Quidam sub custodia parentum et proximorum consanguineorum; et illis dantur custodes de jure gentium.*" So Bracton, treating of this matter, lib. 2, cap. 38, fol. 86: "*Nunc autem dicendum est de illis qui minores sunt, et infra ætatem, et quos oportet esse sub tutela et cura aliorum, eo quod se ipsos regere non norunt: et quorum quidam debent esse sub custodia dominorum, cum terris et tenementis quæ sunt de feodo eorum, et quidam sub custodia parentum et proximorum consanguineorum, ut predictum est, et quibus dantur custodes aliquando, de jure de antiquo feoffamento, et aliquando curatores, ab homine.*" &c. Thus *Stamford*, in page 37: "The king has the protection of all his subjects, and of all their goods, lands, and tenements; and so of such as cannot govern themselves, nor order their lands and tenements, his Grace as a father must take on him to provide for them, that they themselves and their things may be preserved:" and he quotes *Fitzherbert*, 232: "That the king is bound of right to defend his subjects, their goods and chattels, lands and tenements, and that every one is in the protection of the king who has not forfeited it by some offence." Now how can the infants be protected by the crown but by assigning them proper guardians where it is disputable? *Lord Coke* says, in *Beverley's case*, 4 Rep. 126, "That the king shall have the protection of their goods and chattels, as well as of their lands; and compares it to the case of an infant." (*Shaftesbury case*, *Gilb. Eq. Rep.* 172.) This passage is extracted *verbatim*, because it is the particular passage referred to by *Mr. Hargrave* in his note, when, speaking of the chancellor's jurisdiction over infants, he observes, "the usual manner of accounting for it appears to us quite unsatisfactory." See *Gilb. Eq. Rep.* 172: "Saying that this jurisdiction over idiots and lunatics is undoubted, furnishes an argument against his having any over infants; for he derives the former from a *separate commission* under the sign manual; but there is not any such to warrant the latter. The writs of *ravishment of ward*, and *de recto custodia*, prove as little; for were not these returnable in the courts of common law, or, though they had not been so, how doth a jurisdiction to decide between contending competitors for the right of guardianship prove a power of appointing a guardian where it happens that one is wanting? The writs *de custode admittendo* in the register only relate to guardians *ad litem*. *Reg. Br. Orig.* 198, a." (*Co. Litt. Not.* to 89 a.)

Another mode of accounting for the general power of the chancellor to appoint guardians to infants is; 1st, that such power was originally in the crown; 2dly, that it was delegated by the crown to the chancellor, in whom the power existed previously to the erection of the court of wards, by the 32 *Hen.* 8; and, 3dly, that it reverted to the chancellor on the dissolution of the court of wards.

With respect to this power having originally existed in the crown, it seems to have been, although quite extrajudicially, asserted for the first time by the chancellor in *Carey v. Bertie*, 2 *Vern.* 342, decided in 1697: "In this court (he observed) there are several things that belonged to the king, as *pater patriæ*, and fell under the jurisdiction of this court, as *charities, infants, idiots, &c.*; afterwards such of them as were of profit and advantage to the king, were removed to the court of wards by the statute; but, on the dissolution of that court, came back again to the chancery." We shall presently endeavor to show that the latter part of this doctrine is, to speak most guardedly, more than questionable; and this must materially affect the credit due to the proposition respecting the power of the king, as *pater patriæ*, even if it had occurred in a book of authority, instead of making its appearance, for the first time, in a work of no credit or estimation; for such the *second volume of Vernon's Reports* must be admitted to be. Though derived from such a questionable source, the doctrine of the power of the king, as *pater patriæ*, seems, and that most probably from the difficulty of establishing the general jurisdiction on any thing like a satisfactory basis, to have been repeated on several subsequent occasions. (See the *Shaftesbury case*, 2 *P. W.* 118. *Gilb. Eq. Rep.* 172. *Butler v. Freeman*, *Amb.* 302. *De Manneville v. De Manneville*, 10 *Ves.* 61. *Lyons v. Blenkin, Jacob*, 245.)

The venerated name of *Lord Somers*, who presided in the court of chancery when *Carey v. Bertie* was decided, may have had not a little to do in casting a lustre over the doctrine, though it is by no means improbable that it was doctrine he never pronounced. To this very questionable source, however, the doctrine may be traced. We have not traced it to any earlier source; but, whatever may be its origin, it seems very clear that no judge has professed to act on it as the foundation of his jurisdiction in depriving a father of the custody of his children, previously to the case mentioned in *De Manneville v. De Manneville*: and although *Lord Eldon* tells us (10 *Ves.* 63), that it was clearly the principle of *Lord Thurlow*, in *Powell v. Cleaver*, *Cruse v. Hunter*, and *Exparte Warner*, all of which we shall afterwards have occasion to mention, such can scarcely be collected to be the fact from the printed reports of those cases.

With regard to the assertions, that the king's power as *pater patriæ* was delegated by the crown to the chancellor, and that, on the dissolution of the court of wards it reverted to the court of chancery, we apprehend these assertions first occur in the case of *Carey v. Bertie*, to which we have just alluded. These assertions are repeated, indeed, not only in the *Shaftesbury* case, but even by Lord Hardwicke himself in *Hill v. Turner*, 1 Atk. 516. But to this it may be answered, that in the subsequent case of *Butler v. Freeman*, Amb. 302, which was decided by Lord Hardwicke, when nineteen years of judicial experience had been added to his life, he expressly disclaims resting his power of interfering with respect to infants on "the foot of guardianship or wardship;" thereby, in so many words, disavowing the principle he had assumed, when *Hill v. Turner* was before him, and overruling virtually the general doctrine asserted in the case of *Carey v. Bertie*, and *Shaftesbury v. Shaftesbury*. It will be difficult to find any thing to countenance this doctrine of the king's power, as *pater patriæ*, during the period when the feudal tenures prevailed.

It is more than probable that wardship, in other words, the right to guardianship, and the power of disposing of, and regulating it, did not exist under the Saxon dynasty; but, as a valuable fruit of knight's service, was introduced subsequently to Harold's defeat. (See *Sulliv. Lect.* 261. 4 *Inst.* 192.) "All tenure by knight's service (says Lord Coke) since the Conquest draweth ward." (4 *Inst.* 191.) "You have heard before (Lord Coke adds) *de regali servicio*, before the Conquest, but that *regale servicium* (which was knight's service) drew unto it relief; but neither wardship of the body, or of the land, as hath been said. It is true, that the Conqueror, in respect of that royal service, as a badge of the Conquest, took the wardship of the land, and the marriage of the heirs within age of such tenants; but this extended not to tenures of the subject by knight's service." (4 *Inst.* 192.) *Glanville*, though he gives the custody of the heir to the king when the heir held lands of him *in capite*, expressly lays it down that, in *burgage* tenure the crown had no preference, and that in *socage* tenure the nearest kindred was entitled to the guardianship. (L. 7. c. 10, 11); and the passage contained in *Gilbert's Report of the Shaftesbury case*, as extracted from *Bracton*, is, as far as it goes, confirmatory of that doctrine; which, indeed, is further confirmed by the same chapter of that author. But our own impression on the subject is much corroborated by the important remarks of the learned editor of *Coke on Littleton*. "The assertion, (Mr. Hargrave continues,) that the appointment of guardians belonged to the chancellor before the erection of the court of wards, remains to be proved: or, at least, we, after a diligent search, do not find any

authority in print. The passages referred to in *Fleta*, and the doctrine in *Beverley's Case*, 4 Co., by no means warrant the use made of them ; for in neither is any notice taken of infants. Though the care of infants, as well as of idiots and lunatics, should be admitted to belong to the Crown, yet something further is necessary to prove that the Chancellor is the person constitutionally delegated to act for the King. It is no wonder, therefore, that Lord C. Hardwicke took occasion to disapprove of comparing the Court's jurisdiction over infants with that over idiots." 2 Atk. 315. "As to the writs relative to the appointment and removal of guardians in the register, they merely relate to *suits*, which is of very different consideration from general guardians. See *Index to Reg. Brev. Orig. tit. Custodes*." (Co. Litt. n. 89 a.)

If it be difficult to show, *first*, that the Crown, antecedently to Hen. 8, had the power as *pater patriæ* already alluded to ; and, *secondly*, that the Chancellor was constitutionally delegated to exercise the general power of appointing guardians, it will not be easy to prove that this jurisdiction did, as asserted, on the abolition of the Court of Wards, revert to the Court of Chancery: But, from the mode of putting the argument, it seems as if it were intended to infer, that the jurisdiction which *it is assumed* the Court of Chancery previously possessed over the guardianship of infants, was transferred to the Court of Wards, on the erection of that Court. That this is untenable, will be evident by recurring to the act which created the Court of Wards.

The 32d Hen. 8. c. 46. by which "the Court of the King's Wards" was erected, speaks only of wards which "*the King now is, or hereafter shall be, entitled to, with their manors, &c. for the time the same shall be in the King's possession.*" This evidently confined it to those wardships from which the King derived a revenue or profit, and to which he was beneficially entitled, and not to wardships, the right of which belonged to other individuals. The statute erected a new court, which could not, according to a well-known rule of law, have any other jurisdiction than that expressly given to it. If authority were wanted for this position, we have that of Lord Coke himself, when speaking of the Court of Wards : "The Court can have no other jurisdiction than is expressed in the erection, for this new Court cannot prescribe." (4 Inst. 200.) And as nothing can be found in the statute of Hen. 8, which applies to the guardianship of infants in general, or to a decision between litigating parties, *not being tenants of the Crown*, with respect to their rights of guardianship, the inference is, that the erection of "the Court of King's Wards" did not withdraw from the Court of Chancery any power which the latter Court did

really previously possess, with respect to the guardianship of infants in general. The Court of Wards had delegated to it, at least to a certain extent, a newly created jurisdiction over persons standing in the relation of wards to the Crown. We say, the jurisdiction was newly created to a certain, but only to a certain extent.

As to that part of the jurisdiction which was not newly created, it appears to have been transferred to the Court of Wards, not from the Court of Chancery, but from the Court of Exchequer; and this latter Court, as it would seem, possessed this jurisdiction, the wardships of the Crown being so many fruitful sources of revenue. (4 Inst. 108. 193, 194.) But, if the erection of the Court of Wards did not withdraw from the Court of Chancery any power, which the latter Court previously possessed, with respect to the guardianship of infants, it follows, no power could have reverted to the Court of Chancery on the dissolution of the Court of Wards; and the argument in support of the general jurisdiction to appoint guardians, founded on this supposition, therefore totally fails; and if the Chancery possessed this general jurisdiction over infants, previously to the erection of the Court of Wards, as it is contended, it would follow that such jurisdiction remained with it, notwithstanding the creation of that Court; and, consequently, it is for those who contend that it possessed such general jurisdiction, previously to the Court of Wards, not only to prove that fact, and adduce instances in which it was exercised, but to show that the jurisdiction did not go into desuetude during the continuance of that Court, and that there are instances of its being exercised during such continuance. If the advocates for the existence of the power shrink from the attempt of adducing proof of the exercise of it by the Court of Chancery, during the time the Court of Wards subsisted, because such a proof would be inconsistent with their own hypothesis, let them bring forward proof consistently with such hypothesis, and show, that the Court of Wards itself ever exercised any such general power of guardianship, *where the King himself had no beneficial interest*. They must do this, unless they mean to admit that the power itself was, as it were, in abeyance during the existence of the Court of Wards.

These are difficulties connected with *the theory*, which will not easily be removed.

The next ground on which it is attempted to support the general jurisdiction of the Court of Chancery, with respect to guardians, is, that this Court has cognisance of *trusts*, and that guardianship is a trust (*Eyre v. Shaftesbury*, 2 P. W. 104. 1 P. W. 704.); but this argument is also replied to by the learned author to whom reference has already been made. "Nor will it (says Mr. Hargrave) answer the purpose to attempt including guardianship in

the idea of *trusts*, which are the peculiar objects of *equitable jurisdiction*, as it must be seen that this is an overstrained refinement: for though guardianship, in the common acceptation of the word *trust*, may be properly so denominated, yet it surely is not so in the technical sense in which our lawyers use the word, and Chancery exercises a jurisdiction over trusts; for, in this latter, trusts are invariably applied to property, especially *real estate*, and not to the person." (*Harg. Co. Litt.* 89 a.) This conclusion is, indeed, coincided in by a text writer of considerable character, (*Tr. Eq. by Fonbl. Book 2. p. 2. c. 2. s. 1.*) although he is in some measure disposed to qualify, rather than oppose Mr. Hargrave's general reasoning, who, in the result, when speaking of the legality of the jurisdiction exercised in Chancery over infants, states, *that such jurisdiction is not, so far as yet appears, of ancient date; and that, at first, it seems to have been an usurpation.*

Having referred to Mr. Fonblanque's work, we should not omit to notice the observations he makes, when speaking of the general superintendence of the Crown, as *pater patriæ*, over infants: "That in every civilised state, such a superintendence and protective power does somewhere exist, will scarcely be controverted; that, if not found to exist elsewhere, it may be presumed to rest in the Crown, will not, I think, be denied: assuming, therefore, that the general superintendence of infants did originally rest in the Crown, I shall conclude that, *ea ratione*, it is now exercised in the Court of Chancery as a branch of its general jurisdiction." (*2 Fonbl. B. 2. c. 2. s. 1.*) The reasoning of Mr. Fonblanque is always entitled to respect; although it had not received, as it has in this instance, the sanction of Lord Eldon (10 Ves. 63.); but we would observe, that to *presume* this power to have been vested originally in the Crown, is really to beg one of the questions; and that to *assume* that it must be in the Court of Chancery, *because it was formerly in the Crown*, would, it is feared, as reasoning, go to the destruction of the greater part of the jurisdiction of the superior courts of common law. The points to be proved by the advocates for the jurisdiction, rather than to be disproved by those who question it, are, 1st, that it was in the Crown; and, 2dly, that it was delegated to the Court of Chancery: for, if we once indulge ourselves in *presuming* this, and *assuming* that proposition, it may be difficult to say where we are to stop, and what we may not prove.

We have been hitherto speaking with respect to the *general power* of the Court of Chancery to appoint a guardian; a power, that, in ordinary cases, can only be resorted to when the father is no more. From what has been said, it must be evident, how difficult it is to account for the *foundation of this general jurisdiction*. We may, therefore, assent to the accuracy of Mr. Har-

grave's conclusion, that the jurisdiction is comparatively of recent date, and, at the best, but a mere usurpation. The unsatisfactory grounds on which it is placed by different judges and different writers; the bold and unwarranted assumptions that have been made in support of it; the contradictions of the same judge, and that judge no less a man than *Lord Hardwicke*, when speaking on the subject, are so many unanswerable arguments, that no clear and satisfactory *proof* can be adduced of the origin of the jurisdiction, as it is exercised by the Court of Chancery. If, indeed, any further argument in support of this conclusion be required, it presents itself in the emphatic silence of *Lord Coke*, who, professing to enumerate the different kinds of guardians, makes no mention whatever of a guardian appointed by the Court of Chancery: from which it may be inferred, that no such species of guardian was known, at the period when the valuable Commentary on *Littleton* was written. Assuming, however, the *general power* of the Court of Chancery to interfere, in deciding between contending competitors for the right of guardianship, which, at first, could have been the whole jurisdiction exercised, we may ask, with *Mr. Hargrave*, "how does this prove a power of appointing a guardian, where it happens that one is wanting?" It may be asked further, how the *general jurisdiction* to decide on the right to guardianship, or the power to appoint a guardian, when a guardian is wanting, necessarily sanctions the extraordinary and fearful power of *depriving a parent of the custody of his children*? This power, as exercised, makes no distinction amongst the children, and it equally applies to the eldest son. But even the feudal system, in all the haughtiness of her despotism, laid aside the terrors of her power, when the custody of the *eldest son* was in question, and yielded to the more mild and just law of nature in favor of the father. We again ask, how does the *general jurisdiction* necessarily lead to establish the doctrine, that the Court has the power to deprive a *father* of the custody of his children? Yet the *general jurisdiction* is continually referred to, in order to adduce, as a corollary, that the Court has the power to deprive a father of the custody of his children. As if the power of deciding who was entitled to a living when vacant, necessarily led to a right to expel that incumbent, whom the law acknowledged to be legally possessed of the living! A power to supply that which is vacant, assuredly cannot be reasoned on, as giving a power to dispossess a person whose right the law acknowledges.

And yet this is one of the fallacies which runs through many of the cases; and this it is that has compelled us to travel at such length into the discussion of the question, as to the *general jurisdiction*. But, once for all, we protest against the soundness of

that species of reasoning which, assuming the Court of Chancery to possess the power of appointing a guardian, in a case where a guardian is wanting, or to settle disputes between persons contending for a guardianship, would infer a right to deprive a father of the custody of his children. The feudal lord (we speak of a lord where the estate was held *in capite*), when estates became hereditary, had the guardianship of the land, and, *if the father were dead*, of the person of the heir. The lord had this right conferred on him, with the twofold object, after providing for the maintenance of his ward, of benefiting himself, and securing a proper tenant. (*Sulv. Lect. 124. Litt. Sect. 114.*) But, if the father were alive, and the infant were his heir-apparent, the lord's right to the custody of the person gave way to the paternal right. "None (says Lord Coke) shall be in ward of his body to any lord, *living his father*" (*Co. Litt. 84 a. 88 b.*); and the father was entitled to the custody of the person of the infant heir, even against the lord in chivalry. (*Co. Litt. 88 b.*) Nor were the rules of the common law less regardful of the father's paramount and exclusive right to the custody of the person of his infant. The father, as guardian *by nature*, had a title paramount to all others, and by virtue of it he retained the custody of the infant's person, even, as we have just remarked, against the lord in chivalry, when the infant was the eldest son. (*Co. Litt. 88 b. Harg. n.*) The father, likewise, was guardian *in socage*, and he was guardian *by nurture*. These were so many additional rights, if any additional were necessary, to the custody of the infant's person. Nor has the legislature hesitated to enlarge the father's powers.

.. We allude to the Statutes of 4 and 5 *P. & M. c. 8.* and 12 *Car. 2. c. 24*; and the latter of those acts authorises the father, *though himself an infant* (thereby getting rid of an almost universal legal incapacity to give effect to the paternal right), to appoint, by deed or will, the persons to be the guardians of his children after his decease, (*see Harg. Co. Litt. n. 89 a. 2 Fonbl. Eq. p. 241. et seq. Ed. 3.*) and thus to exercise a power over their persons, and virtually to extend his guardianship, after he had ceased to be personally able to do so. But, against these, which are so many solemn declarations of the feudal law, the common law, the law of nature, and the statute law, in favor of the right of the father to the custody of the person of his child, the Court of Chancery, it seems, has a rule which renders the law of nature, the common law, and the statute law, equally inoperative.

The father may be guardian *by nature*. He may likewise be guardian *by socage*, and, as such, entitled by the law of the land to the custody of the person of his son, and certainly by the law of the land he is so entitled, and would, if feudal tenures had not been abolished, as far as applies to the eldest son, have been so entitled,

even against the lord in chivalry. He may again have another claim, recognised by the law of the land, to the custody of his child, if under the age of fourteen, as guardian *by nurture*. (*Harg. Co. Litt.* 88 *b.*) These rights in themselves as sacred as any we possess, whether we refer to *Magna Charta* or the Bill of Rights, have been gradually lessened, if not undermined, by the rules of the Court of Chancery. At first, it may excite some surprise, that there should have been comparatively so slight a struggle against the assumption of such a power. But, it should be recollected, that in some of the few instances the father has been poor and needy, and he has neither had the means or the inclination to dispute the power of the Court. In some of the few other instances, he has shrunk from that trial of character which might almost frighten the most moral man, unless his nerves were strong; a trial which, sweeping in its compass over the greatest part of a man's life, might drag from the recesses where it had long very properly laid, every forgotten scandal which malice had ever imputed to him. Is it to be wondered at that men should shrink from such a contest, and men, too, speaking of some of them, on whom the character of father had hung but very loosely?

From these, or some such causes, it has happened, that some of the cases in the books have not been much discussed; that others have not been discussed at all; and that the question has never, by appeal, been carried to the House of Lords.

Let us now proceed to consider the cases connected with the subject of the *particular jurisdiction, to deprive a father of the custody of his children*. The earliest case in print, in which the direct question arose as to the power of the Court of Chancery over the persons of infants during the life of the father, seems to be that of *Ex parte Hopkins*, 3 *P. Wms.* 152, decided in the year 1732. It appears that the testator, who was the uncle of the children, had been permitted by their father to have the custody of them, and the testator had been at the expense of bringing them up under his own roof, and of educating them. He left them considerable fortunes by his will. The father petitioned the Court to have the children delivered over to him by the executors; but the Court refused to determine the point on a petition, and without a bill, and the Chancellor said, "the father was entitled to the custody of the children during their infancy, not only as guardian by nurture, but by nature; and it cannot be conceived (he added) that because another thinks fit to give a legacy to my daughters (though ever so great a legacy), therefore, I am by that means deprived of a right which naturally belongs to me; that of being their guardian." Here is an express recognition of the natural and common law right of the father, and the intimation of a strong opinion in favor of the father's privilege, but little in unison

with the doctrine of several of the subsequent cases, which totally overlooking all the legal and natural claims of the parent to the custody of his child, and scarcely admitting that he has any concern in the proper education of his offspring, or any benefit from his services, or pleasure in his society, decide that nothing, but what by force of a *petitio principii* is assumed to be the interest of the infant, is to be consulted. We have said that *Ex parte Hopkins* is the first case in print, which *directly* applies to this power of the Court over infants *during the life of the father*.

In the case of the *Duke of Beaufort v. Bertie*, 1 P. Wms. 702, the point did not arise; and we only refer to it for the purpose of adverting, *first*, to an observation of the Chancellor; and, *secondly*, to the argument of the Solicitor-General. The Chancellor says that "the Court would, and had interposed, even in the case of a father, as where the child had an estate, and the father, who was insolvent, and of an ill character, would take the profits; there the Court had appointed a receiver, as was done in the case of *Kiffin v. Kiffin*." "*There the Court had appointed a receiver*," says the Chancellor; and very properly, because the father, who had entered, as we should conceive, as guardian in socage, on his son's land, was, *as to the profits*, a mere trustee for the son, (*Harg. Co. Litt.* 88 b.) and the Court would secure such profits for the infant (*Harg. No. 72. Co. Litt.* 89 a.) against the acts of an insolvent trustee; and the more readily, as an action of account would not hold against the guardian, until his guardianship expires. (*Co. Litt.* 89 a.) In *Kiffin v. Kiffin*, the Court interfered to preserve the property; and the statement of the decision, as furnished by the Chancellor in the *Duke of Beaufort v. Bertie*, does not, therefore, bear out the representation made by the counsel in the 10th *Ves.* 35, that in *Kiffin v. Kiffin*, "this Court interfered, merely on account of the father's insolvency and character, *depriving him of the custody of his child*." This representation is *wholly* unwarranted by the report in *Peere Williams*. Nor is the other representation contained in the same page more correct. We allude to that of *Kiffin v. Kiffin*, being followed by Lord Thurlow in *Wilcox v. Drake*, 2 Dick. 631, decided in 1783, since in *Wilcox v. Drake*, or rather *Wilcox v. Darker*, the order was made, referring it to the master, to approve of a proper person to have the custody of the infant, *with the express consent of the father himself*, who, probably, the more readily acquiesced in the arrangement, in order to relieve himself from the burden of supporting his child; as the father was a person not only in a low situation of life, and in insolvent circumstances, but was indebted to the infant in a sum which he could not pay, and the infant himself was of the age of 19 years. (*Jacob, Rep.* 250, n.)

With respect to the argument of the Solicitor-General in the *Duke of Beaufort v. Bertie*, he stated, "that there was a diversity between a natural parent and guardian; for that if the latter was for marrying a ward under his quality, it was most usual for the Court to interpose, but not so in case of a father's endeavoring to marry his infant child to one beneath him." Now, this is rather a remarkable concession; and it is a representation of the law not quite consistent with the doctrine of some of the more recent cases, which, assuming that the Court had extensive powers over a testamentary guardian, have, by the strangest piece of illogical reasoning ever made use of, from hence inferred, the existence of equally extensive powers over the father, as if the father were the substitute of the guardian, and had a power devolved on him, instead of being the individual who conferred it. (*See Butler v. Freeman, Ambler* 302.)

From 1792, when *Exparte Hopkins* was heard, until 1756, no case is, we believe, to be found on the subject of the power of the Court of Chancery to deprive a father of the custody of his children, the question not arising in *Hill v. Turner*, 1 *Atk.* 516, the father of the infant being in that instance dead; but in the year 1756, two cases occurred before Lord Hurdwicke. We allude to *Blake v. Leigh*, and *Butler v. Freeman*, reported in *Ambler* 306, 301. In *Blake v. Leigh*, the father was a Roman Catholic. The Chancellor, however, did not decide the case on that ground; but, in appointing a guardian, he came to the conclusion, that the father had waived his parental right, and had virtually consented to relinquish his power, which was the ground of the decision in *Potts v. Norton*, in note 2, *P. W.* 109, and in *Lyons v. Blenkin*, *Jacob* 245.

We have no difficulty in assenting to the principle *volenti non fit injuria*; but, it is obvious, that this mode of disposing of the matter virtually admits, and that in the strongest manner, the natural and common law right of the father to the custody of his children, which is, however, to say the least of it, if not quite inconsistent, yet rather difficult to reconcile with the doctrine of the Court of Chancery. Nor is the difficulty obviated by the distinction often adverted to, that the existence of a common law right is consistent with the *controlling power* of a Court of Equity. The power here exercised is *not* that of *controlling*, but of *destroying*; since the restraint of the right is, in this particular instance, of a nature totally inconsistent with its existence.

To return to the decision of *Butler v. Freeman*. The father in that case stood in no adverse position to the power of the Court, which was not asserting its authority to destroy his paternal rights; but the question was, whether it was a contempt to marry a ward

of the Court, although the father of that ward were living. The very terms of the question strongly recognised the paternal power. Lord Hardwicke seems to be perplexed in selecting the grounds of the general jurisdiction of the Court in the case of infants, and he is, as we have already remarked, rather at variance with himself in the years 1737 and 1756. In the year 1737 he observed, "this Court has the care and ordering of infants; and though, by Act of Parliament, the Court of Wards had a particular power over them and lunatics, yet, in every other respect, the law as to infants continued as before, and as the Statute of 12 Car. 2. c. 24. has dissolved the Court of Wards and Liveries, the power of this Court over infants is resulted back to them again." (*Hill v. Turner*, Atk. 516.) Let us see how this accords with Lord Hardwicke's doctrine in 1756. He states, that an objection had been made to the interference of the Court on the ground, that "the plaintiff's father is alive, and nobody can have the guardianship of him by reason of the *patria potentia*; consequently this Court has not, and if so, the Court cannot interfere. But (he adds) this Court does not act on the foot of guardianship, or wardship: the latter is totally taken away by the Statute Car. 2; and without claiming the former, and disclaiming the latter, the Court has a general right delegated by the Crown, as *pater patriæ*, to interpose in particular cases for the benefit of such as are incapable to protect themselves: and, it is no objection, that the father of such persons be living, for infants in the life of their father sue by *prochein amy*, and defend by guardian. This Court will protect the estate of the infant against the father, and prevent its coming into the father's hands. It is admitted, the Court has interfered where there has been a testamentary guardian. I see no difference between the cases. A testamentary guardian by the statute has all the remedies at law which a father has. But, I own, there must be a ground to bring the matter before the Court; and therefore, if the father be living and no suit instituted here, the Court cannot, in this summary way, inflict punishment." Though much of this reasoning be open to very considerable observation, we merely introduce it for the purpose, once for all, of making a remark which is quite as applicable to several of the subsequent cases, when they speak of the *patria potestas*, or *pater patriæ* power; namely, that there is an extraordinary anxiety evinced by Lord Hardwicke, although he talk in large terms of that particular power, to find out some other foundation on which by possibility his judgment could rest, independently of such dangerous and questionable ground. It assuredly is not too much to say, that this implies a very considerable distrust on the part of that great judge in the *parens patriæ* power, as a legitimate ground of the jurisdiction: for, if he had felt that the power of the

Crown, as *parens patriæ*, existing in the Court, was unquestionable, the very terms in which it is stated are quite extensive enough to supersede the necessity of recurring to any other ground on which to rest the jurisdiction. To proceed—whether in *Butler v. Freeman* there was, or not, a right application of the supposed power of the Court, we must observe, it was not an application of it adversely to the father, and for the purpose of depriving him of the custody of the child. It unfortunately happens that we are left wholly without the opinion of *Lord Hardwicke* on the question, whether, assuming the doctrine with respect to the original existence of the power of the King as *pater patriæ*, and its being devolved on the Court of Chancery as indisputable, it could from thence be deduced, that the Court had the power of depriving a father of the custody of his child. *Lord Hardwicke*, in *Butler v. Freeman*, was not called on to consider this question, and he merely decided that it was a contempt to marry a ward of the Court, although the father of such ward were living; and as he was obliged to resort to the doctrine of the King's power as *pater patriæ*, and likewise to other reasoning, (the father being the natural guardian of the infant,) to support his jurisdiction, this affords a strong argument in favor of the paternal right. The abstract question, of the power of the Court of Chancery to deprive a father of the custody of his child, seems, in some measure, to have come before *Lord Thurlow* in *Powell v. Cleaver*, 2 Bro. C. C. 500, which was decided in the year 1789. The question, in that case, involved the right of a stranger to appoint a guardian to an infant, whilst the father was alive.

Lord Thurlow says, "It is no where laid down, that the guardianship of a child can be wantonly disposed of by a third person. The wisdom would be, not to raise points on such a question, as the Court will take care that the child shall be educated properly for his expectations." The father, in that case, had received a benefit from the testator. Speaking of *Powell v. Cleaver*, *Lord Eldon*, who was counsel in it, says, "It was contended that the bounty given to the father had put him to his election, and he could not, after receiving that legacy, withhold compliance with the condition for the education of his children. That argument could not sustain the jurisdiction. The father, not knowing that he was making that election, was at full liberty to pay back the money. But *Lord Thurlow's* opinion went on this, that the law imposed a duty on parents, and in general gives them credit for ability and inclination to execute it. But that presumption, like all others, would fail in particular instances; and if an instance occurred in which the father was unable or unwilling to execute that duty, and, farther, was actually proceeding against it, of necessity the State

must place somewhere a superintending power over those who cannot take care of themselves, and have not the benefit of that care which is presumed to be generally effectual. In these cases (referring to *Powell v. Cleaver*, *Cruse v. Hunter*, and *Ex parte Warner*,) there was a struggle between the feelings of the father, and a due attention to the interests of the child, on the condition that his education should be conducted in the manner prescribed, which was the course of maintenance and education the best calculated to promote his happiness in the state, in which that fortune would place him. But *Lord Thurlow* took on him the jurisdiction on this ground, that he would not suffer the feelings of the parents to have effect against that duty, which, on a tender, just, and legitimate deliberation, the parent owed to the true interests of the child, and his lordship separated the person of the child from the father." (10 *Ves.* 63.)

If the State must place somewhere a superintending power over those who cannot take care of themselves, which, by the by, is in some measure *Mr. Fonblanque's* argument, as already noticed, it is by no means an indisputable consequence that the State has placed that power in the hands of the Court of Chancery. But, if the foregoing explanation of the judgment in *Powell v. Cleaver* be correct, it is very important, because it serves to show that *Powell v. Cleaver* is the first case in print, to which the doctrine had been applied, that the Court of Chancery, representing the King as *pater patriæ*, had the right to deprive a father of the custody of his child, and in that case nothing morally wrong was imputed to the father. The expression that *Lord Thurlow* "took on him the jurisdiction," is, we believe, perfectly correct in point of fact. He literally seems to be the author or founder of it; and the first judge who embodied, as it were, the shadowy lines of an obscure theory. If *Powell v. Cleaver* be the first case, the application of the doctrine to this specific object can only be carried back to the year 1789, a period of thirty-nine years from the present time. How it has happened that such a jurisdiction, if it ever did really exist, should have slept through centuries, and should, for the first time, have been called forth and armed with all its terrors to the destruction not only of the natural, but of the common law right of the parent, at a period no more remote than thirty-nine years from the present time, it is not easy to state consistently with all that is so confidently assumed respecting the antiquity and the extent of such jurisdiction. If *Lord Hardwicke*, when he decided *Blake v. Leigh*, had been aware of the existence of any such principle, as is represented to have prevailed in the determination of *Powell v. Cleaver*, or *Lord Eldon* had distinctly recollected that principle, when he disposed of *Lyons v. Blenkin*, it is not easy to discover why those

great judges should have rested their judgments on the supposed acquiescence of the parents. A broader principle lay before them: the interest of the child was, consistently with what is stated to be the principle of *Powell v. Cleaver*, in each instance alone to be considered; and the power of the Court might have been exerted to compel the parent to a submission. But there is, as we would again remark, one observation, which may be made on most, if not all the cases when they speak of the power devolved by the Crown, as *parens patriæ*, on the Court; namely, that though this power is virtually represented to be all in all sufficient to support each particular decision, yet there is a most singular, not to say inconsistent, inclination evinced, by recurring to other distinct grounds of jurisdiction, to establish the propriety of each particular decision, on reasoning, chiefly, if not altogether, drawn from other sources. Supposing, however, *Lord Thurlow* to have arrived at the above conclusion in *Powell v. Cleaver*, it was not probable that he would feel much hesitation in disposing of the next case which came before him, we allude to *Cruse v. Hunter*, *Mr. Bell's note*, 2 Bro. 499. 2 Cox, 242. 1 P. W. 704. *Jacob* 250. In that case, which was decided in the year 1790, a petition had been presented to prevent the father who resided abroad, and was an outlaw and insolvent, from taking his son away, or improperly interfering with his education. It seems that affidavits were filed on both sides, imputing gross charges to the father and to the mother, the latter of whom had the custody of the child. *Lord Thurlow* pronounced an order conformably with the prayer of the petition, saying, "that he would not allow the color of parental authority to work the ruin of the child" (*Mr. Bell's note*); and, admitting that the jurisdiction was questioned (as, indeed, it well might be), he added, "he was of opinion that this Court had arms long enough to reach such a case, and to prevent a parent from prejudicing the health or future prospects of his child, and that whenever a case was brought before him he would act on this opinion. If the House of Lords thought differently they might control his judgment; but he certainly would not allow the child to be sacrificed to the view of his father." (*Same note*.) There was a peculiarity in that case. We allude to the father being out of the jurisdiction, and which, according to a more recent decision, would, of itself, have been sufficient to have supported the judgment (*Lyons v. Blenkins, Jac.*); and it is unnecessary, therefore, to rest that case on the application of the power, as *parens patriæ*, said to be devolved on the Court, though that case is represented in *De Manneville v. De Manneville* to have been disposed of by an application of such power as we have already remarked. In a subsequent case (*see Anon. Ca. Jacob* 264.) the Court did not prevent the father from

taking his children abroad, although it imposed terms on him which implied its power to prevent him.

We proceed to notice the case already mentioned, of *Ex parte Warner, or Skinner v. Warner*, 4 Bro. C. C. 101. 2 Dick, 779; which did not, as erroneously supposed, (10 Ves. 63.) come before Lord Thurlow, but was decided in 1792 by the Lords Commissioners. In that case the infants presented a petition for a guardian, and to restrain the father from removing them from school. The father had become a bankrupt; had treated the children's mother with cruelty, and had been arrested, and was in Newgate on articles to keep the peace exhibited by the mother. He had no domicile, and was wholly unable to provide for the infants, who were supported by their mother and relations. An order was pronounced conformably to the prayer of the petition; but there is nothing to show that the father opposed the petition, or even appeared on it; and it is, therefore, most probable that the matter passed without any notice on his part. We should also notice, that during the time Lord Erskine was Chancellor, he made an order, appointing a guardian to infants, on a case of gross ill-treatment, coupled with cruelty, on the part of the father, who had been prosecuted and imprisoned; but the order does not appear to have been opposed by the father. (*Whitfield v. Hales*, 12 Ves. 492.) As to the subsequent decisions, the anonymous case, 10 Ves. 61, proceeded awfully on an application of the power of the King, as *parens patriæ*, to deprive a father, in constant habits of drunkenness and blasphemy, of the custody of his child. *De Manneville v. De Manneville*, 10 Ves. 52, also proceeded on an application of the same power to prevent a father, an alien friend, from removing his child out of the jurisdiction. But *Lyons v. Blenkin*, Jacob 245, seems rather to have gone on the father's acquiescence in a fund being applied by another person to the maintenance and education of his children, and allowing them to be brought up with expectations founded on a species of support which he himself could not give, and being thereby precluded from depriving his children of the benefits they would obtain. But this evidently partakes much of a simple, equitable principle, rendering it unnecessary to call into its aid the power of the King as *pater patriæ*, and was considered by Lord Hardwicke as sufficient of itself in the case of *Blake v. Leigh*, where no mention is made of the power of the Crown. There is, indeed, a remarkable passage in the judgment of *Lyons v. Blenkin*, which seems, resembling in that respect the passage we have extracted from *Ex parte Hopkins*, to be at variance with the absolute power exercised in the right of the King as *parens patriæ*. "Nobody can doubt (says Lord Eldon) that if I give a provision to your child, it does not give me, or any

one else, a right to control your care of her—not at all; but, on the other hand, if, when she is young, I was to give her a considerable maintenance during her infancy, which you could not have supplied, and a large fortune afterwards, and you, the father, permit her to take the advantage of that education, which could not have been afforded but through my gift, could you afterwards stop short, and say that she should no longer have that advantage? Under such circumstances, the Court would inquire what was most for her benefit.” What is the inference from these passages? Is it not, that if the father refused to allow the child to have the education so offered, the father has a right so to do, and retain the custody of his child?

But, then, how is this consistent with *Powell v. Cleaver*, as represented in *De Manneville v. De Manneville*? Would not the Court interpose its power, as representing the King, as *parens patriæ*? Let us suppose a case. A stranger gives an estate of 20,000*l.* a year to an infant, the eldest son of a man, who has only 500*l.* a year. Would not the Court, acting on its power as *parens patriæ*, and despite of every resistance the father could make, take that child from him, and give such child an education consistently with his large expectations? Suppose the father was an advocate for a domestic education, and averse from public schools and universities. Would the Court suffer him to keep the infant at home? Would it not take him from the father, and send him first to one of the great public schools, and afterwards to Oxford or Cambridge? Could it, consistently with its own modern decisions, suffer the wishes of the father to have any influence whatever? Would it not say to the father, You shall not capriciously and wantonly make use of your power, as a parent, to deprive your child of an education suitable to his expectations? What then becomes of the father's refusal, or what is the value of a consent which he cannot withhold? If, on the other hand, he for a time tacitly assent, he is afterwards precluded from disturbing the arrangement; but, if he resist, he is compelled into submission. Are these, or not, inconsistencies? And is it, or not, the fact, that the Court knows not on what basis to rest its rules in this particular case? And what is worse, is it, or not, true, that the public know not on what this terrific power is really founded? Is it, or not, true, that there is infinite confusion, let the eye rest on what part it will of the doctrine, and the reasonings by which it is attempted to be supported?—that judges cannot be reconciled to each other, nor the same judge always made to accord with himself?—that the general power of the Court, with respect to appointing guardians, has been placed by different judges on very different grounds?—that many of those grounds are wholly untenable, and none of them, perhaps, perfectly satisfactory?—and lastly, that the

particular power of the Court to deprive a father of the custody of his children, if it be not obscured by the antiquity of the doctrine, is involved in difficulty far beyond that of any other rule of equity, which has sprung up within the same very limited period? Before we dismiss the case of *Lyons v. Blenkin*, we should also notice the passage of the judgment, in which the Court, speaking of the father, appears to glance at two distinct grounds, as if either in itself were sufficient, for applying the doctrine of the power derived from the King, as *puter patriæ*. "There must be some ground (says Lord Eldon) of imputation on him, or of interest in them, to warrant the Court in interfering." The case of *Creuse v. Hunter* would, we presume, be adduced as an instance of the former, and *Powell v. Cleaver*, of the latter kind. The concluding passages of the judgment are also too important to be passed over without notice. "I find (observed Lord Eldon) that the authorities have gone further than I thought they had. I speak not of cases that have been cited, but of others not usually mentioned. There were, I believe, some cases in Lord Northington's time, in which he considered that the Court would reserve power over a father, not only if he accepts a bounty given to himself, but if he avails himself of a bounty given for the maintenance of his children which he must otherwise have provided at his own expense." Now the cases of *Creuse v. Hunter*, *Skinner v. Warner*, and *Wilcox v. Drake*, had been cited, and Lord Eldon himself had mentioned *Powell v. Cleaver*, and *Fagniani v. Selwyn*. If any cases had gone beyond these, it was very desirable that they should have been mentioned, because the subject is of vital interest to every father in the kingdom.

As to the cases before Lord Northington, they seem to have differed but little from *Powell v. Cleaver*, and *Lyons v. Blenkin*, in the particular circumstance alluded to. If they were decided on the ground, that the father, having, by being relieved from the burden of educating and supporting his children, received a benefit under the will, was therefore precluded from disputing that disposition of his children which virtually deprived him of their guardianship, and devolved it on another: this is a principle wholly independent of the power, as *parens patriæ*, and in fact is nothing but an application of the rule of equity, which will not suffer a person to dispute the propriety of that disposition, which a testator has made of that person's property, when he has taken from the testator an equivalent; a species of case quite familiar to those who practice in courts of equity, and in which they would say he had made his election. We proceed now to notice some of the cases not previously in print, which are subjoined to *Lyons v. Blenkin*. In *Colston v. Morris* (Jacob 257, note) a considerable legacy was given to the infant, with a direction that her education should be

committed to trustees; and a legacy was left to her father on condition of his not interfering in it. This condition was enforced by the present *Master of the Rolls*, who required the father's undertaking not to interfere in the education. No objection, it is obvious, arises to this proceeding, as the legacy was a purchase of the father's consent to part with his legal right, and the order of the Court tacitly admits it. This brings us to the case of *Shelley v. Westbrook*, (*Jacob* 266.) which was heard by *Lord Eldon* in the year 1817. The petition of the infants themselves represented, that their father avowed himself an atheist; and had published a work deriding the Christian religion, and denying the existence of a God, as a creator of the universe, and that he intended, if he could get the children, to educate them as he thought proper. *Lord Eldon*, in his written judgment, speaking of the jurisdiction, and alluding evidently to something he had previously said, but which unfortunately is not preserved, observes: "after the example of *Lord Thurlow* in *Orby Hunter's Case* (*Creuse v. Hunter*), I shall act on the notion that this Court has such jurisdiction, until the House of Lords shall decide that my predecessors have been unwarranted in the exercise of it." The order restrained the father and his agents from taking possession of the infants, or intermeddling with them. In *Courtois v. Vincent*, (*Jacob* 266.) the infants were natural daughters of the testator, who had bequeathed them considerable fortunes. Notwithstanding the mother insisted that they should reside with her, the Chancellor appointed another person guardian, but directed the Master to consider what intercourse could be reasonably allowed, consistently with the plan of their education, under their guardian. We presume this case was decided by reference to the principle, in some measure extended, of *Powell v. Cleaver*, it being considered by the Court, that the gift of a considerable fortune necessarily implied that the individual to whom that fortune was given should be suitably educated. This we collect from the following passages in the judgment: "The Court had there said, that it would not permit the father, wantonly and capriciously, to deprive the child of that benefit. As in *Powell v. Cleaver*, where benefits were given to a child, on condition that he should be educated in a particular manner; the father was not allowed to defeat the gift." (*Jacob* 265.) This brings us to *Fagnani v. Selwyn*, (*Jacob* 268.) the case of a settlement on a female infant, whose father was dead and her mother abroad, on condition of such infant being under the care of the person making the settlement. It was referred to the Master to consider, whether that person should be appointed guardian, taking the settlement into consideration? The mother was not, as far as we can collect, a party in the cause; the infant alone seems to have been the plaintiff, and the person making the settlement and the trustees were the defendants; and,

as the answers admitted all the matters stated in the bill, we infer it was purely an amicable suit. Indeed, it could not be a suit decisive of any thing adverse to the right of the father to the personal custody of his child, because he had been dead some years. We cannot, therefore, understand the judgment in *Lyons v. Blenkin*, when it speaks of "*what was already settled in the case, &c. of the young lady whom Mr. George Selwyn provided for.*" (Jacob 253.) Besides, if the plaintiff was born in 1771, and the decree made in 1787, she was sixteen years of age; and as her father was dead, it is presumed that she might have chosen her own guardian. At all events, that case may be laid on one side, when we consider the abstract doctrine. We have not adverted to the *Westmeath Case* (Jacob 251, note), where, notwithstanding the wife had the custody of the children under a deed, and she supported them, they were delivered over to the father; nor have we alluded to the case of *Fennham v. Lennard*, 4 Bro. P. C. 302, in the House of Lords, mentioned in *Mr. Hargrave's note*, where a child was taken from his mother, who was a Roman Catholic; because we think we are justified, by what fell from the Chancellor in *Lyons v. Blenkin*, in concluding, that the Court would not pronounce a similar decision in the present day. (See Jacob 264, in not.)

Having thus reviewed the decisions, let us briefly advert to the state of the doctrine. And, to begin with the question of the *general jurisdiction* of the Court of Chancery in the superintendence of infants, that jurisdiction has been by its advocates placed either, *first*, on the analogous power over lunatics and' idiots, *for which there is no pretence*; or, *secondly*, on the assumed fact, that the Crown had power over infants, *of which there is no proof, and the assertion itself, indeed, is drawn from a questionable source*; or, *thirdly*, that such power was delegated by the Crown to the Court of Chancery, and *of which, likewise, there is not any proof; but, on the contrary, it is more than probable that the power was acquired by usurpation*; or, *fourthly*, that it reverted to the Chancery on the dissolution of the Court of Wards, *which is wholly groundless*; or, *fifthly*, that the jurisdiction belongs to the Court, because guardianship is a trust, *which position is founded on a confusion of terms, and is wholly untenable*.

But, if the *general jurisdiction* were established on the most satisfactory foundation, it may be contended that it is not a corollary deducible from it, that the Court has the power of depriving a father of the custody of his children. It not only directly destroys a natural and common law right, but the cases relating to it are contradictory, and involved in great confusion.

In some of those cases, it is virtually declared that a person cannot deprive a parent of the custody of his child, by giving to that

child a fortune (*Ex parte Hopkins; Lyons v. Blenkin*); but in others, the gift of the fortune is made the ground of the reasoning, and the parent's opposition is treated as wanton and capricious; and, assuming the interest of the child to be in opposition to the wishes of such parent, which, by the by, is rather begging the question, the child is separated from that person to whom he owed his being. (*Powell v. Cleaver; Courtois v. Vincent.*)

Again, in one of the cases, the father has been held to have waived his right by accepting a certain pecuniary and direct benefit; whilst, in another, we are told, that he might, if he acted in ignorance, have counteracted this effect by repaying the amount. In other instances, the very relief from the expenses of supporting the child, indirect as it may be considered to be, has been of itself treated as sufficient; whilst, on other occasions, such relief has been passed over, as if of no importance. (*Blake v. Leigh; Potts v. Norton; Powell v. Cleaver; Lyons v. Blenkin.*)

In some cases the power of the Crown, as *parens patriæ*, has been spoken of as all-sufficient: yet, in those very cases, much anxiety has been evinced to rest the decision on other grounds.

In some instances, the father's assent to the Court's assuming the guardianship, is treated as all in all; whilst in others his most decided resistance is considered of no weight, if the Court can fancy a benefit to the child, which would be disappointed if the father prevailed in his opposition. These are not the incongruities of different judges merely, but it is evident some of them may justly be ascribed to the same judge. Nor should it be forgotten, that one of the most able and acute lawyers this country ever produced, has characterised the *general jurisdiction* assumed by the Court over infants as being "an usurpation:" but whether he was, or not, right in that opinion, the power to take a child from his parent seems to be of very questionable policy, and, at all events, is of very recent origin, if it be the fact that it cannot be carried farther back than the year 1789. We are told, that there are other cases, besides those in print, which tend to establish this very extraordinary and fearful jurisdiction. If those cases were relied on, they ought to have been stated. There should be nothing like mystery on a subject which comes home to the heart of every father attached to his children. The law of England, on a point of such vital importance, should be free from the slightest shadow of doubt. But, as we know nothing of any cases relative to this subject but those which are in print, we would, in conclusion, humbly express an opinion, that the authorities do not satisfactorily establish the power of the Court of Chancery to deprive a father of the custody of the persons of his children.

A LETTER
TO THE EDITOR OF
THE QUARTERLY REVIEW,

IN FURTHERANCE OF THE SUBJECTS OF THREE ARTICLES

In No. 72 of that Review,

ENTITLED,

**ON AGRICULTURE AND RENT;
SUBSTITUTION OF SAVINGS' BANKS FOR POOR LAWS;
ON PLANTING WASTE LANDS, &c.**

BY THE REV. F. MEREWETHER,

VICAR OF WHITWICK, LEICESTERSHIRE.

—*queque ipse miserrima vidi.*

LONDON :—1828.

SIR,

I HAVE read with the utmost interest and satisfaction *all* the articles in your last No. (72) of a religious, statistical, and forensic nature. The lighter ones I have not touched. On the ability of the first article in the Number in particular respecting the modern republication in France of the *Bibliothèque Chrétienne*, in one hundred volumes, I could, both as a Clergyman and a Protestant, enlarge with great sincerity and pleasure : but it would be foreign from my present purpose. The articles which have mainly engrossed my attention, so as to occasion the following remarks, are those on agriculture and rent, savings' banks, and planting waste lands. These, but especially the two first, have so fastened on my reflection, and mingled themselves with impressions I have derived from local circumstances which remain to be stated, that I could hardly satisfy my own mind without at least recording my thoughts. As an author, I have already been taught, that profit is not to be expected ; and as a country clergyman, I have no right to expect that my reflections on such subjects as the present will be of much interest to the public. Still they are connected with such important topics, that I am willing to cast them on the arena of public opinion. If they are not found wanting, they may be useful. The bare possibility of their being so warrants to my own mind the experiment.

With respect to the article that stands first in your Number of the three I have named ; viz. that on agriculture and rent ; I could

not help regretting the total omission in it of a subject so closely allied to the matter there treated; and that it had not been more or less touched on in this particular connexion: I mean, the state of the poor laws, and the poor system. I grant that in other places you have discussed this subject with as much fulness as ability and enlarged policy; and I am fully aware that the article in question had objects in view distinct from this particular subject. But in a practical point of view, the compulsory maintenance of the poor has so vast, if I should not rather say so overwhelming an influence on the state of agriculture, especially in any question of relation between it and manufactures and commerce, that I scruple not to say, no practical truth can be elicited from any view of subjects of this kind that omits all consideration of the poor system in England. This appears to me to be a defect in your third article. The main benefit therefore, if any, that I propose to the public in this attempt, is that of founding on the admirable, and as far as I am capable of judging, indisputable positions you have laid down, an examination of the operations they should have on our poor and poor laws.

You have proved, as I think to demonstration, that the agricultural interest, on every principle of necessity, justice, expediency, and policy, must be the first protected; although, as you justly state, the manufacturing and commercial interests are only second to it. To be convinced of this, it is only necessary to go back to first principles. The soil unquestionably is that, which first created wealth for originating and stimulating manufacturing and commercial exertions. To failure in the soil also must failure in these two last sources of wealth be attributed. If the case can be for a moment supposed of the farmers being in a body obliged to throw up their farms; of the landlords, either from inexperience, disinclination, or other causes, being deterred from farming their lands themselves; and thus laborers thrown out of employ, and the land producing no fruit; it is obvious that all stimulus to manufacturing invention, all commercial enterprise, must at once be annihilated. It needs no great stretch of discernment to discover this. The only wonder is, that a principle so simple in itself should be actually almost crushed by the blindness of supposed (for after all it is but supposed) competition and rivalry of conflicting interest in its application.

I do not feel at all equal to the nice points of prices of grain, privilege of importing corn, protecting duties, &c. My arguments will be simple, and those of common sense only. The community may, for aught I know, be properly employed through its representatives, in taking care that the owners and tillers of the soil do not carry off too large a share of the nation's wealth. But what

ever remedies of this kind may be needful, one thing must be clear. The land, as the law indeed itself already says, ought not *wholly* or even *mainly* to maintain the poor. The land has not created the burden; the land ought not to be left alone, or all but alone, to sustain it. Look into the state of agricultural parishes. Is there any one who will say, that in any of these the soil is not ready to maintain all that till it? The farmer does not ask any other class to maintain his laborers for him; or if he does, it is in a proportion not worth mentioning. Look again into the state of other large commercial towns, or manufacturing districts. In either or both these, who support the parochially relieved poor? Unquestionably very many (and that to a burdensome amount), who receive no benefit whatever from their labor; excepting indirectly, as all the community at large do in their turns from every thing; whether corn, manufactures, or commerce; that is, through their being the instruments of obtaining certain articles, for which full price is paid, and a fair profit annexed. Now, is not this a flagrant inequality and injustice? In parishes partly agricultural and partly commercial, the soil chiefly supports those in necessity who labor for the profit of others, not of them. In parishes partly agricultural and partly manufacturing, agriculture is taxed in a tenfold measure to supply the wants of needy artisans and handicraftsmen, both in agriculture and manufacture. Lastly, In agricultural parishes only, the shopkeeper's payment to the poor being as a drop in the ocean, the farmer and (because *through* him, therefore *with* him) the landlord¹ pay all. Is not this monstrous in a well-regulated country? Let any unequal and disproportionate profits either of the landlord or farmer, or both, if they can be shown to be such, be checked by becoming restrictions on these profits. But let not the burdens produced by others be laid on their shoulders. Let this unfairness at least be removed. Let not those who sit by to witness their neighbor's gain be compelled to have this very gain made an occasion of almost exclusive taxation and impost on themselves.

The practical difficulty is, how can this be remedied? I answer, I think it is possible, and that on fair and equal grounds. First, Let all manufacturing edifices and all commercial buildings,²

¹ When the landlord and farmer are mentioned together, though for the sake of brevity I omit the titheholder, every argument I make use of applies with precisely the same force to this third party as to the other two: the stake in the land being precisely of the same nature.

² I see no reason why funded property should be taxed for the relief of the poor. The national creditor's income is not so created, as to increase pauperism: neither do the learned professions, or the army and navy, swell the list of paupers, but the contrary.

whether shops, factories, warehouses, or counting-houses, be taxed in some reasonable proportion, as the law in fact authorises, to the profits arising from them to the maintenance of the poor. Next, as it will sometimes happen, that the wealth arising out of these concerns is spent in parishes distinct from those from whence the labor proceeds, it would be desirable, if the sums arising from these sources in aid of the poor rate could be collected in *counties* or *districts*, so as to form a middle course between too *local* and too *general* distribution. My reason for this suggestion I will state presently. Again: if no better mode can be devised for attaining a knowledge of the incomes derived from manufactures and commerce than that adopted under the income tax, even this ought to be resorted to, rather than these sources of wealth be wholly exempt from payment to the poor. The advantages that would arise to the whole community from the manufacturing and commercial interests being *practically*¹ brought to bear their reasonable share in support of the indigent poor would be threefold; and in this threefold division, the first only would be of a pecuniary nature.—First, What is now felt by the land as a burden too heavy to be borne, when the aid of these two important classes was obtained, would almost cease to be one. Secondly, Not only would a vast pecuniary relief be afforded, and that perhaps without the change being very sensibly felt by any class, but the additional payment would bring along with it additional weight of consultation and counsel. It is obvious, that those who make this additional payment should have their proportionate share, directly or indirectly, in the government of the concerns of the paid poor; and interest being added to public spirit and humanity, a large number of valuable counsellors would probably be obtained, who are now for the most part either *careless*, or at least *inefficient* bystanders. Lastly, All schemes for remedying want of employment, either in any one or all of the three branches, would be best digested and acted on, when all had a common interest in keeping down the general burden; whilst each would be a seasonable check on any undue preponderance in the other: and if the right of voting were proportioned *in some way*² to the sums paid, this balance would be kept in proper order. I can anticipate no possible reasonable objection to these proposals, if the two following assertions are admitted. First, That undue depression of the land must affect the nation at large. Secondly, That those who create a bur-

¹ I say *practically*, because in *theory* the law says so already.

² This qualifying expression is necessary, provided the properties newly introduced into the poor's rates were assessed and levied in *counties* or *hundreds*.

den on the soil, ought not themselves to be exempt from their share in the relief of it.

With these additional accessions both of resources and consultation, let me now inquire whether some glaring inconveniences in the details of the poor system might not be alleviated, if not altogether removed. First, I am persuaded the money paid on the score of either unemployed or partially employed poor (amongst the partially employed poor I will include all whose family as a whole cannot be maintained by the work it can procure) may be considerably reduced. Commerce, I believe, produces no very large number of relievable poor; though far more than is proportionate to the sum at present paid to the poor by commerce. Shopmen, porters, warehousemen, &c. are not only well paid, but are commonly much more provident than the manufacturing poor. From this last-named class it is that the burden mainly comes. With respect to this class, the circumstance of master manufacturers paying something in proportion to their profits towards the poor, would create in them at once a disposition to give their advice and information as to the poor of their own department, whether in parish vestries, or in some way to petty or quarter sessions; though chiefly, I apprehend, in vestry. The manufacturer too would have a stimulus of a self-interested kind to add to the becoming impulses of justice and liberality—for giving his workmen a fair compensation for his labor: fair, I mean, after striking a balance between the state of his own receipts and his workmen's needs. The agriculturist would be greatly encouraged by this to do the same to *his* men. He would not consider the maintenance of a moderate-sized or even a large family by labor alone without poor's rate, so hopeless a thing as it now is. He also would be willing to give his best advice and information in vestry, whenever the farming laborers were *out* or *short* of work. In both cases, a labor-rate, on the plan adopted at Oundle in Bedfordshire, would more than probably be unanimously consented to: the manufacturer taking the artisans, the tradesman or commercial-man those of his department, the farmer the laborers. If these remedies were insufficient to meet a sudden or extreme case of stoppage of employ (the extremity alone warranting the plan), then, and then only, the house row or rounds-men system on an *enlarged, equitable, parochial* plan to be resorted to, as a last, and *only* as a last, resource. Lastly, Some plan might be devised for the public works of a parish, chiefly those in the surveyor's department, to receive a proportion at least of the unemployed; and the wages payable to those to be assessed by a committee, deputed to watch over the manner in which each does his work. By the help of these various and ample remedial processes, I feel persuaded the

evil of *unemployed* at least; and I believe of *partially employed* poor also, would be abated to an incredible degree, if not cease altogether.

2. Another point, in which amendment seems feasible, is, that public, I mean legislative, parliamentary wisdom should lay down a scale, not merely to *assist*, but to *govern* the regulation of parish allowances, according to the number of adults or children in families, proportioned to the fluctuating price of corn, with care that the maximum and minimum should not be brought too near together. This would be a great relief to *parish officers, vestries, and magistrates*. It might be left to be assessed in counties at the quarter sessions either annually, half-yearly, or quarterly, as might seem advisable. To any one who has been accustomed to attend parish vestries it cannot be unknown, how little it is the disposition or practice to revise the regular allowances; and likewise, in the first instances of a pauper's getting on the pay-list, how little pains are taken to adjust accurately that portion of his needs which the parish is called on to supply. Even however if there were more care and diligence in this matter than there is, it ought to be considered a relief to the *contending* parties (for such, I fear, unhappily is really the only name by which they can be called) to have this matter settled *for and between* them. To the parish officers it must obviously be pleasanter to avoid dispute and difference on this subject, provided justice can be done to the parish without it: and it may be presumed to be a relief to individual magistrates likewise, to have this matter settled by the whole body collectively. After the general scale of allowance is fixed, all that is required in special cases in excess of this allowance must be brought under the head of extraordinary payments; and in these cases, the allowance being made up of ordinary and extraordinary relief together, it would be desirable to put the letters *EXTR.* against each name in the weekly pay-list, that in reading over these names the attention of the vestry may be specially called to them. In adjusting this scale, what it should direct the officers to would be, *how much money each person or family would require*; and then as to the rest, there must be a discretion left with the vestry, to determine what proportion of this sum the pauper and his family may be reasonably calculated to earn. In aiming to ascertain this point, the united information of the farmer and the manufacturer, the merchant and the shopkeeper, brought together by one common bond of self-interest, will be of the utmost value. If in some cases it cannot be precisely determined, in these the balance of doubt should be thrown slightly on the side of the pauper. After this computation, should complaint arise, the province of the magistrates, already, it should be remembered, overwhelmed with

demands on his gratuitoustime and attention, so as to make all reasonable economy of both a fit object of public regard, will be simply that of hearing evidence, as to whether the computed amount of earnings has been fairly calculated or not, and adjudging or withholding farther relief accordingly. I feel satisfied that some such arrangement as this would lower the poor rates exceedingly: for, notwithstanding their burdensome character on those who pay to them, the supineness of the payers, in the absence of some such simplifying process as this, in going on from week to week in blind and improvident allowances, is such as would excite the utmost astonishment to witness.

8. The last remedy that occurs to me, capable of very extensive application for the alleviation of the poor rates, is either a strict enforcement, or else a fresh enactment, of laws for the prevention and punishment of *bastardy*. A more cruel hardship does not exist than this to the payers of the poor rates; even putting aside the awful extent of its wickedness and immorality. Regarded merely in a statistical point of view, it requires prompt and vigorous suppression. The following suggestions therefore I offer, though I am not sufficiently acquainted with the criminal law, either previous to or since Mr. Peel's most inestimable improvements, to know how far they are already met by the existing statute-book. In practice, the father is at present for the most part the *only* party visited with punishment and compensation to the injured community: and, doubtless, the seducer should receive the first and heaviest stroke. But the mother has a heavy debt she owes to society, which she ought to be made to pay in a manner somewhat proportionable to her guilt: besides, the father in very many cases before the hour of visitation, or even public suspicion arrives, contrives to get out of the way, and evade the hand of justice. This, I doubt not, will be admitted to be a fact by those competent to judge of it. What I would propose, therefore, is this—Let the father still continue to have the burden of maintenance thrown on him, where he can meet it; and where he cannot, let imprisonment and hard labor be inflicted. But for the mother, let her also not escape unpunished. She has much to answer for; and it is fit she should be made an example of in the way of punishment, if not for her own good (which it is to be hoped would often, if not always, ensue), at least as a warning to others. Her condition indeed, as soon as the helpless babe is born into the world (the innocent occasion, alas! of much angry feeling and contention, and too often perhaps at once the mate parent of perjury, and the wailing child of misery)—her condition for the present is one of some sort of compassion, and for a time nature and religion allow this claim to be respected: but that time past, compassion any longer continued becomes morbid.

Pity must no longer remain. Blame and punishment must follow. She ought to be handed over to the laws of the country; and these should visit her with punishment, though her innocent babe, necessarily obliged to go where she goes, should at the same time receive both her's and all other necessary protection. Nay, lest the unhappy offspring of guilt should be subject to the harsh visitation of the unworthy mother writhing under a sense of the punishment she is suffering, as she will say, through *it*; but as the community will say, and say justly, through *herself*: provisions should be made to prevent ill-treatment, and secure care more and better than her own, without withdrawing the child from the parent. The present state of our prisons, bridewells, and houses of correction, admits of all this. In united parishes, too, houses of industry might perhaps be made available to this object; and so in these cases save the necessity of resorting to prisons, &c. at all. After considerable reflection, and certainly not without reluctance at having to suggest any penal remedy, I grieve to say no other effectual one for this flagrant evil and hardship occurs to me; though I should like to hear of a better, if there is one; and one more lenient, if adequate to its purpose. The evil itself is one that ought to be checked in some way or other, as far as laws can do it. It is nothing but the most morbid humanity that can stand in the way of attempts for its diminution. In this good and to society almost just work, religion, morals, and political wisdom, go hand in hand.

I have thus touched on *three* very important remedial measures, which I cannot help thinking would tend materially to lighten the burdens produced by the poor laws. Alleviation, it has been repeatedly asserted by high and public political wisdom, is all that can be at present looked for; and this is all that is here proposed. I will now briefly state the personal and local circumstances adverted to at my opening, which have led to the present suggestions, after reading the three articles of your review, named in my title-page.

I am the incumbent of a large and populous midland parish, whose name also appears in the front of this tract. When I say *large* and *populous*, I mean rather relatively to its *nature* and *circumstances*, than positively as to its *size* and *number*. It has about six thousand acres and three thousand inhabitants. It consists of three townships. But the township which has particularly called forth the present observations is that which gives name to the whole parish. This has about four thousand acres; a large proportion of which is boggy, forest land, lately enclosed; and about eight hundred pounds is paid annually to the poor, besides surveyors' rates, which have of late been unusually heavy.

I imagine I am not far from the mark in saying, that the average annual value of the unimproved forest land is rather under than exceeds the average sum paid throughout the parish to the rates; viz. about four shillings an acre. The rest of the land throughout the township is of very indifferent quality, and likewise in a very low state of cultivation; probably from the extreme poverty of the parish. I am not bringing this case forward as an instance of a very depressed parish¹ as to its rates, compared with its rental; but the most distressing circumstances of the place yet remain to be added. First, There is not one opulent person in the whole township: neither is there one single inhabitant that can be said to have made a fortune, whether in farming, manufacture, or trade. Next, another very distressing feature is, that the population is mainly, if not wholly, manufacturing: for the farming laborers are next to none, there being little either of capital or spirit to lead to their employ. And lastly, what is perhaps worse than all, whatever wealth is obtained from the manufacturing hands is carried to other places: chiefly, either to the county town, or to a thriving, opulent town about seven miles distant: there being no master manufacturer in the place. This last feature is what occasioned my suggestion in a former passage, that provided the manufacturing profits were to be taxed at all proportionably to the poor, it should be by districts of either hundreds or counties. Why I think this ought to be a *general regulation*, is, because, although the circumstance I am here stating presents itself in the most aggravated possible shape in the township I am describing, yet the evil of manufacturing wealth arising out of places where the accumulators of it do not reside, is not, I believe, at all uncommon. I have from necessity, in consequence of an insolvent tenant quitting his farm, and leaving it in a state of dilapidation, been an involuntary occupier in this township of one hundred and sixty acres of vicarial glebe land: sixty forest land (mostly unimproved), one hundred old inclosure. On this land I have been obliged to build a cottage and several farm buildings. These I will throw out of the account: both the capital employed in them, and its interest. I have farmed this land for five years, not indeed with the benefit of direct personal, but what is next to personal knowledge—with I believe a fair degree of spirited and active, though not expensive, management; and I question whether there is a farmer in the township who, if he were appealed to for his honest opinion, could say otherwise, than it has been as well farmed, and as much improved within the same space of time, as

¹ I use "parish" here as the most familiar term, though the place is a township, as already stated.

any farm in the place. Now let me state the result. For five years, after the most careful and exact account kept of every the minutest produce of the farm, down to every egg and head of poultry, *not one farthing of rent has been obtained*: in other words, no surplus remains after the expenses of the farm have been paid. That which in the hands of a careless and neglectful, or at least *not improving*¹ tenant, used to bring in an annual rent of nearly one hundred and forty pounds, *now produces no rent*. If I were to sell up now, the stock, &c. on the land might pay for perhaps two-thirds of the expense of the buildings, and no more.

Now then, as a suffering occupier, I can state the effect of the poor laws on this unfortunately-conditioned parish. It is this. For want of capital, and from the effect of seclusion from stimulus to exertion, the land in this place has unquestionably been as little improved as that of any place whatever that could be named in the neighborhood. But the evil is here. The poor have taken off all the spare capital. The land, and the land only (for the rated houses *without land* hardly deserve to be named as an exception), bears the burden. It has to support a hungry, distressed population, continually liable to sudden irruptions of extraordinary failure of work; and with all it pays, I am confident a great deal of abject poverty is to be met with: I mean, not the effect of wilful indolence. The poor rates are a drag on the little property there is, scattered too as it is through a large number of hands. Now, my firm belief is that if the *three* measures I have ventured to propose should be put in force, or where necessary be enacted, the poor rates of this township would be lowered at least one-half. Who is there that doubts, if I am correct in this opinion, that a tone and spirit would be given to agriculture by such a relief? The personal history I have related, by no means uncommon I believe in its *nature*, though probably so in its *degree*, to clerical owners of land, might well be adduced as a warning to the titheholder, did the present argument require it; and such cases must suggest the hope, that if more inclosures are deemed desirable, commutation of tithe for land may not appear essential to them: for so numerous have cases of this kind been, that it is not fairly to be expected of the titheholder, that he should so far forget what is due to himself and those who succeed him, as to consent to a measure so manifestly injurious. But the object with which I make this statement is simply to show by a strong practical example what a serious load the poor rates inflict on the land; how unequally this load is borne for the interests of the community

¹ I add this last epithet, because the forest land was let to a different person, whose management this expression is meant to describe.

at large; and how, without going the lengths of attempting to remove altogether a system that has taken too deep root to make it desirable that it should be hastily and abruptly eradicated, there are yet several mild remedies that may be beneficially resorted to, to soften its rigor. Others I propose stating in the sequel of this letter. But these are all I would propose in the present connexion.

Before I part with this branch of my subject, I must disclaim all wish to throw anything like a distressing or unequal burden either on commerce or manufacture; but especially on the latter. Because this latter has occasioned the burden, it is not therefore reasonable that *the whole* burden so occasioned should be thrown on them. No. This would be running into the opposite extreme. Moreover, it is due to the manufacturing interest in particular, though to the commercial so in a certain degree, to remark, that to the capital employed by them, and thrown into the general store, the country has been very materially indebted for the vigor with which it was enabled to sustain a long and expensive war, out of which England came out glorious, and Europe free. To have aided this splendid result in the manner and degree the manufacturing interest did, is no mean praise. It is praise that ought not to be grudged or withheld. Yet in the midst of these considerations, it must not at the same time be overlooked, that whilst the nation was thus aided, individuals were enriched: the source of their riches became an occasion of immense burdens on the land; and from those burdens they are the last who should claim exemption. In the hour of exigency and distress too, the population created by manufactures fly to agriculture, and almost to agriculture alone, for relief.—Connected with these remarks, a striking specimen of *voluntary* aid afforded to the distressed manufacturers by the landed interest ought not to be omitted. No one can forget the support given to the distressed manufacturers last year. Of this support though perhaps not very easily discriminated; am I far from correct in saying, that at least three-fifths came from those connected with the soil? If the general or local subscription list were consulted, and the amount of parochial collections in agricultural or manufacturing and commercial parishes compared, I am strongly persuaded this opinion would not appear ill-founded. At any rate, the agricultural interest raised a large part of the whole, in proportion to its means. I have some reason to fear that in the course of this collection there were some symptoms of those who had been enriched by manufactures withholding their support to this voluntary fund: a spirit, or rather want of spirit, which had it been very prevalent, the effect might have

been very unfortunate, in producing a strong revulsion of public feeling very unfavorable to the then existing condition and future interests of the manufacturers. At all events, I repeat once more, the agriculturists were the main contributors: perhaps they were in fact at that time the most *able* to contribute; and this I urge at once as a proof, how important it is to the whole community to uphold and preserve the solidity of the land. If this interest is destroyed, all is gone.

Having dwelt thus long on the manufacturers, I must say a very few words respecting the commercial interest. I repeat my impression, that commerce has no very powerful tendency to increase the poor rates, as it does not extensively create paupers; but it does increase them in some degree, and perhaps nearly as much as agriculture does. At any rate, it is a vast source of wealth acquired by the intervention of labor. Why then should it be exempt from having a share, and a fit share in what is to be treated in some sense as a national burden—that of the poor? Why should the farmer be left to sink under this weight, whilst the tradesman and merchant holds his head above it? There is no reason in this. There is actually no reason whatever why landed capital should pay more to the poor, than any other capital produced by labor. If there is any particular description of wealth that ought to be most taxed on this head, it is that which perhaps at present most escapes; viz. manufacturing profits. But I only contend for their paying such a share as will be commensurate with their interest in the common stock. This I hold is the least they ought to do.

I have thus brought to a conclusion all that presents itself to my mind connected with the article in your review on “agriculture and rent:” and submitting it to your judgment and that of my reader, I pass on to your next article I have enumerated; viz. that entitled “substitution of savings’ banks for poor laws.”

Most heartily, Sir, do I congratulate the public on the possession of this fruit of liberal, reflecting humanity, and sound, enlightened policy. Would that I may live to see it acted on! If life were granted only for purposes such as these, then would I, having seen this, utter my “Nunc dimittis.” I verily believe the plan thus unfolded might in its farther development and ultimate accomplishment, become one of the most valuable legacies of its kind bequeathed by this generation to posterity. Under discreet and general application, I can imagine no plan less open to objection, except amongst those who will object to every thing; or more likely to produce results on all sides beneficial, without serious injury to any. Could this be effected, we might indeed hope to see

a poor population of sound moral health, courage, diligence, and integrity. I beg respectfully, Sir, to follow you through some of your details.

I am pleased with the temper with which you are willing to soften down the word "compulsory." It is an ugly word to an Englishman's ear; but it ought not to sound harsh to a dependent stipendiary poor, if mingled with the cheering tones of genuine independence, and happy, undesponding industry. If however the national feeling will at first be offended by this adjunct, notwithstanding that its proposed application has already the high sanction of those two noble bulwarks of our country, the army and navy,¹ means may be devised to introduce the attempt gradually: till the success of a *gradual*, should at once reconcile all to the *permanent* measure: as I am satisfied the experiment, fully and properly made, would do. Not to omit too your own remark, which deserves to be repeated; that a large portion of His Majesty's subjects having already been sufficiently long liable to a *compulsory* tax for the relief of *others*, why should not these others now submit to a like tax for the relief and benefit of *themselves*?—Could I be persuaded that any legislative measure would follow on any of the preceding suggestions, I would submit the propriety of introducing into whatever bill or bills might pass on the subject a provision for giving a trifling bonus to such paupers as made deposits in the savings' banks *over and above* the required amount, and *in proportion* to the amount of such addition. It may appear anomalous indeed to propose paying the pauper for saving for himself; but it must be remembered this is only proposed as a means of getting out of an unnatural and diseased state of things: and this temporary measure ought to be very short-lived; not more than three, five, or seven years, on a graduated scale of distress. By that time, it may be hoped, the pauper himself will have begun to feel, how much better it will be to increase these savings by a *voluntary* effort, and thus eat the bread of independence, than to rely on, if not a scanty pittance, yet at the best a bare subsistence (for this is all compulsory relief ought to supply) through the servile channel of constrained relief.

I am not equal to the task of adjusting the precise measure of approval or disapproval of all you write, either as to *the extent to which the compulsory payment should be carried*, or *the amount of the weekly sum to be put by*. Perhaps if my opinions on this subject were of sufficient value to entitle me fully to express them, I should be disposed neither entirely to acquiesce, nor the contrary. A few suggestions, however, I will offer on these particulars.

¹ See Quarterly Review, Vol. 36. p. 487.

I set out with expressing a wish, that the compulsory system might be *universal*: I mean in the *descending* scale, after the highest step in the ladder has been fixed. And therefore it is, that sooner than make any exception, I propose encouraging the pauper in adding to the prescribed payment: the poor laws being of course continued, whilst the new system is brought into gradual operation. With respect to the class of laborers just above paupers, this plan ought to suggest encouragement to masters, whether in trade, manufacture, or farming, to give sufficient wages to allow of the necessary deposits being spared.¹ Mounting still higher, the class above these will see the interest they have in conforming to this system, from the proximity of their present position to that of the rate-payers themselves: to which class their honest industry will probably bring them; as long, that is, as the poor law system lasts, and no remedial process such as that here proposed can be completed. I see no reason why the taxed part of the community in this case should not warrantably lay claim to an arrangement of this kind, if it is capable of affording them a reasonable mode of deliverance from their present burden. If the masters in their various departments are introduced by the legislature to this measure through a gradual and progressive course of operation; it will be found their wisdom to give sufficient wages for facilitating the plan. From all therefore that do not make by the labor of themselves or their families at least fifty, and from that to seventy pounds a year, I should before requiring a weekly deposit either out of earnings, or for a limited time in certain cases out of the poor rate allowances, as the case might be. These are observations in furtherance of yours, which I would not throw out, if I did not in my conscience believe that the plan is one by which every branch of the community would be benefited: and I appeal confidently to *any one branch exclusively*, or *all branches collectively*, and ask—What ultimate injury would they, or any of them, sustain? What benefit (as far as this particular measure can go) may not all and each of them expect?

With regard to the second point in your consideration, *the amount of the drawback*: as any measure that did not produce *some* actual and tangible benefit within ten years would encounter too much public impatience to admit of being dispassionately waited for, I should be apt to suppose that *a penny* in the shilling, whether

¹ See p. 162, where this suggestion is connected with an allusion to measures of relief to the farmer, capable of enabling him to make this increase in wages. I must however no longer delay the remark, that the landlord will find it wise to encourage the farmer in some way or other to this step; he being in fact the party *most permanently* interested.

on the earnings or parish allowances, would not be found more than was necessary, to give effect to the plan. And on the principles already laid down, it would be found no less policy in the master to give a small bonus in the way of wages for the encouragement of *increased* deposits, than it appeared to be in the former case, to supply fit means for making the *primary* ones. Through the effects of these combined modifications of one and the same principle, self-interest; a never failing one, if it can but carry *discernment* also in its train; a feeling of reliance on the poor's rate would be gently and gradually withdrawn: a nobler and more generous sentiment must, according to the nature of man, inevitably take its place: and I would appeal to any moral philosopher, and ask, whether it is in human nature for a population once enabled to eat *its own* bread, to wish to return to a state of parochial dependence? Nothing, I will venture to affirm, would bring back such a return, but some such extraordinary circumstances as, I am free to admit, have brought us to the state we are now in on this momentous subject.

If then these advantages are derivable from the simple measure you propose, growing out of the existing machinery of savings' banks, it is clear that the landed interest in general, and the occupiers of land in particular, are deeply concerned in advancing such a project as this.—But let me not be mistaken in this position: When I say the landed proprietors and the farmers are interested, I do not say they are interested *solely*. No. There is not a living man in this realm of England who is not materially interested in having the able-bodied poor live on *their own* income, and not on that of *others*. But agriculture is, according to our present constitution, *most* interested in this project; though all would be about *equally* so, if the preceding suggestions on introducing fresh property to the payment of the poor's rate were acted on, as long as the poor laws last. It remains then to be inquired, *how*, if the legislature should be disposed to act on your suggestion, and frame any law or laws more or less conformable to it, it would be in the power of the owners and occupiers of land to pave the way for any act of this kind from the legislature. I do not enter here on the probable amount of saving that would be produced; though I can see no objections to be made against your reasonings on this head: excepting that if the *impotent* poor are still to be provided for by rate, something should be added to your total on this score. That the machinery of your system however would produce a vast saving to the payers of the poor's rate, yet no more than they ought to have the advantage of, cannot be doubted. So forcibly was I struck with the means which landlords and farmers have of forwarding your plan, that I had

not read your article a week, before I made a point of communicating the knowledge of it to the officers of two parishes with which I am professionally connected. The way I did it was this. In one case it happened to be in vestry; in the other not. I said, "Such and such an article has appeared: from reading it, it seems to me still more than it ever did before to be at once your *duty* and your *interest* to encourage savings' banks." Now let us trace this a little onwards.

If a "substitution of savings' banks for poor laws" (a bold title this of yours, as it meets the eye at the top of your title-page! but not less discerning and comprehensive than bold) can be effected, it is manifest that it must be the owners' and occupiers' *interest* to lend a hand in the encouragement of savings' banks. It is not less their *duty*, as citizens, to forward an attempt so full of beneficial results to the community at large, as far as it is in their power. Now let us examine what sort of means they possess. Premising the general remark, that one of the worst evils of the poor laws is, that they are almost a bonus to the worthless, and a dead weight on a spirit of honest independence; so that any substitute for them is in this point of view of the utmost importance, and claims the utmost consideration. But to proceed:

In the first place, it appears to me the landlord would be exercising a very wholesome influence over his cottage tenantry, especially the farming laborers, if in all his intercourse with them he accustomed himself to give a marked and decided preference to such of them as had their names in the savings' bank book of the adjoining town, or were willing to produce the proof usually placed in their own hands of having made such deposits. And he would be acting in my opinion not less wisely, and on principles of enlarged national policy, if he were for a time at least to remit a slight proportion of rent on the ground of such deposits. I feel a reluctance in suggesting any specific sum to so important and influential a body; but say perhaps at the rate of 5, or perhaps $7\frac{1}{2}$ or 10 per cent on their deposit money for the year. Next, I think the farmer would be acting a not less politic part, if he were to begin with his *household servants*, and say, "For every ten shillings you deposit in the savings' bank during the year, I will give you sixpence or perhaps a shilling at the end of it." Then let him go on to his *out-door laborers*: if he can afford no more, let him single out *two* of the best he has; and offer them a similar encouragement, though not perhaps quite in an equal proportion. The great objection, alas! to this will be, that the farmer has already no money to spare: and this is true. But let the remedial processes already described take place; let the manufacturer and the man of commerce help as they ought to do

towards the poor rates—let the allowances be more warily and discreetly adjusted ; and by these combined sources of relief to the farmer, he will be enabled to give this encouragement to his household servants and laborers : not to mention that the landlord also will from hence derive increased motives for giving *his* share of impulse of the same sort, as well as of encouragement to the farmer, to forward the plan.

The farmer too may both individually and in vestry find other indirect occasions of giving weight and notoriety to the savings' banks. I am glad of this opportunity of going back once more to the expediency of calling in manufacturing and commercial aid to the poor rates in their proper degree. This once done, the farmer will have no excuse for refusing to help forward your savings' bank plan. Without this superadded aid, I must freely own I do not see how he can do it. Let the legislature then forthwith create new powers, or else let the existing ones be forthwith vigorously acted on, to call in this aid to the poor's rates. This, I feel persuaded, must be the groundwork of your savings' bank system.

I advance, however, to ground not yet touched on ; in order to show how this superadded aid will forward your measure. Once introduce manufactures and commerce into their fit share of payment to the poor, and you give them a powerful motive which does not at present exist for encouraging savings' banks amongst their dependents. Many, I doubt not, at present encourage these institutions in a considerable degree on principles of *humanity* only ; but add the impulse of self-interest, and the encouragement will be much more prevalent. If the manufacturer were accustomed to recommend, or perhaps he could even as a condition of giving out work *require*, that a certain weekly deposit should be made by his men out of their earnings, what a vast sum would be thus brought into the economising store ! I am assured by an intelligent and very respectable superintendant of a large colliery concern, that there a weekly drawback is *required* from every man's wages, to supply a fund for the hour of accident, sickness, or other emergency. This case reminds me of the large *mining* population, which has never been touched on in this tract before ; but for whom a plan of wholesome, provident economy is here chalked out.

Let us now sum up the total.—If through landlords, farmers, master manufacturers, merchants, tradesmen, and owners or occupiers of mines, all within their reach and influence are persuaded, or in some cases *constrained* to connect themselves with savings' banks, what a vast portion of the population of laborers is at once here included ! Your system has already taken root. The

pauper population is alone left. These, I repeat my opinion, ought to be expected and required to make their deposits, even though for a time the parish funds supply them with the means of doing so; and beyond this, I once more repeat the suggestion I have before made, that if paupers will abridge their maintenance so as to *add to* the required sum, a small bonus should be given them for so doing—say at the rate of *twopence* or *threepence* in the *shilling*. My reason for this suggestion I have already given. I will now revert to the special facilities that may be afforded to the plan of your article before me, by the adoption of some former suggestions of this pamphlet: and I cannot serve my original purpose in making these suggestions better, than in adding to a development of their *general* advantages, a statement of the *particular* benefits which might accrue from them to the measure now under consideration.

For the last time then I repeat; once make the manufacturers and men of commerce proportionate payers to the poor rates, and their attention to measures for the alleviation of these rates will be at the same time proportionably excited. And to what measure, I will confidently ask, can their interest be more beneficially directed and invited, than to the simple one you have here proposed? If your plan can be carried into effect, the farmer, manufacturer, tradesman, and the like, paying respectively their fair proportion to the poor's rate, will, under this plan, save from £200 to £300 per cent in their payments at the lowest; that is, where without this plan they would pay three or four pounds, they will with it pay only one pound. Is not this worth their attention? The matter lies plainly thus.—A plan has been suggested to the legislature for compulsory economy to the poor; let the several parties just named, in their several departments, and with their respective means of influence, prepare the way for a *compulsory enactment*, by giving previously every possible encouragement to *voluntary deposits*. Thus the law of habit, and of spontaneous impulse, would over a vast portion of the community hardly allow the introduction of statutory compulsion to be felt: and yet what an improvement would be thus made at once on the habits of the laboring poor! I am sanguine enough to look forward with no inconsiderable confidence to this result: if so, to your plan the praise will be justly due. Yet I hope I shall not be swelling my humbler suggestions into an undue measure of relative importance, if I add, that excellent as your plan concerning the savings' bank is, I do not believe a *compulsory enactment* will be so satisfactorily introduced, if the way be not paved by a previous extension of *voluntary payments*; and that neither one nor the other will meet with adequate encouragement to insure its full and efficient suc-

cess, if the manufacturing and commercial interests are not brought to throw in their quota both of wealth and sway, to alleviate the present burden of the poor laws.

I have thus stated all that occurs to me on this very interesting article in your 72d Number; and conclude with a repetition of my earnest wish that your humane and enlightened views may meet the full degree of support and success they deserve. As far as this particular measure goes, and a great way in this special branch of civil policy it does go, I do not know that I can frame a better wish for my country.

On the remaining article in your Review that I have named in my title-page, that "on planting waste lands," I have but little to say beyond expressing the general interest with which I read it, because I am not able to estimate adequately either the full extent of your plan to the planter, or the value of the picturesque effect produced to the country at large. It is only in its connexion with the subjects of the two preceding articles, and the remarks I have built on them, that I can venture to touch it; viz. as an extensive source of employment to the poor out of work. If the present state of agriculture is considered, with the burdens on it, it seems out of the question to anticipate that any adequate encouragement can be now held out to a cultivator of waste land for production of the ordinary fruits of the earth, even if the population of the country stood in need of increased cultivation, which I presume from appearances and from the state of prices it does not. If therefore waste land is at present to be brought into a productive state, planting seems if not the *only*, at least the *most obvious* mode of doing it: and as far as I am able to judge, you have offered more than enough to encourage the experiment. The profit, with any thing like prudent management, seems pretty certain; the collateral advantages to agriculture considerable; and in point of picturesque appearance, it cannot need the eye of a painter to be convinced of the vast advantage of a country spotted with woods and coppices over a dreary waste without any single object of interest for several miles. In every point of view, therefore, it seems to hold out encouragement to the proprietor of land, whether as a speculator (without any very great risk), a patriot, or a man of taste. Not to mention with regard to *patriotic* views in particular; that anything calculated to strengthen one of the main bulwarks of our country, the navy, as encouraging the growth of timber obviously is, is an object well worthy the attention, and calculated to rouse the energies of the enlightened patriot. But to all this the single view I am now going briefly to take of it, adds one more great advantage—it is a source of employment to

the unemployed poor. Few men in health amongst the laboring poor can be so ignorant of the use of a spade, as not to be able to dig a hole to put a tree into; and the nicer departments of draining, fencing, &c. might be left to abler hands. Even if an opulent and well-disposed landowner should undertake planting in a parish where there was no very great want of work, there are few districts in which *adjoining* parishes may not be found within reasonable distance, that might be sensibly benefited by a draft of laborers from them to such work. If it had no other use than in some cases accustoming the manufacturing laborer to a knowledge of the use of the spade, it would be conferring a vast benefit on the community, in furnishing him with the means of turning his hand to other work, when his own regular employment was not to be had. In this point of view, if the owner of waste land can at once improve his property, beautify his estate and the surrounding country, and open a door of employment to the unemployed poor; it should seem as if nothing but want of capital, want of energy, or want of public spirit and enterprise, could stand in the way of such an experiment.

As it seems evident that the present state of agriculture forbids all immediate prospect of the enclosure of waste land for the growth of grain and the propagation of cattle, there is one species of property which appears to demand attention in this particular point of view—I mean waste land belonging to clergymen in right of their benefices. I suspect there may be a good deal of land throughout the kingdom of this description: though I may possibly be advertising to a case not so common as I imagine, from the circumstance of being myself, as already stated, the owner of a tract of land of this description, in right of my vicarage. As it seems clear, both from your remarks and from common sense, that the planting of waste lands to any extent must require considerable expenditure at first, for which a mere lifeholder might often not be able to calculate on a return (not to mention the actual unprofitableness of the land itself in the mean time); I would submit the wisdom of enacting, that, in the case of the property I am now on (provided it is of sufficient extent to warrant legislative enactment), clergymen be allowed to take up money on mortgage on their livings for planting waste lands, in the same way that they can now for building parsonage-houses, &c. An allowance should be made, too, out of the money raised to the planting incumbent, for the loss of rent he sustains whilst the land remains unprofitable: whilst, on the other hand, both he and his successor should be restricted to their proportion of cutting down and selling. The sum thus allowed to be raised should be limited to the cost of a certain number of acres, at an average sum, say perhaps not exceeding one-

tenth of the waste glebe. Without some such provision as this, it cannot reasonably be expected that such waste land as belongs to benefices can be brought under this description of management.

I have only one more point to advert to, in close connexion with the subject now before us, and it is this:—Even if waste planting cannot always be introduced, I wish at least that waste land could be partially applied to assist in teaching manufacturing laborers, when out of work, the use of the spade and hoe. And even if *waste* land be not exclusively applied to this purpose, there might possibly be encouragement to the agriculturist to encourage spade-husbandry on *land of better quality*, for the sake of supplying occasional employ to this class of the poor population; as it would do to an incredible extent, whenever it was practicable. In fact, in those districts it would employ at once the whole laboring population. When the savings in stock, in implements, and in poor's rates are put together, it might perhaps appear to be much more worth the farmer's while to turn his mind to this mode of tilling some of his land, than is commonly imagined. I am not prepared to offer any hints in detail on this subject, though I have heard intelligent practical persons speak strongly in favor of it. I simply throw it out here in a general way, as an extension of your principle of "planting waste land" in the particular shape I have viewed it, not unworthy of consideration.

I have thus completed my reflections such as they are, occasioned by the three articles in your Review, which I have adverted to. But for these articles, I think I may safely say the present observations would never have assumed the features of minute detail they now do: such as they are, I lay them before you, Sir, and the public. Most heartily shall I rejoice, should they tend in their measure to throw light on a subject which I am confident now claims the attention of the legislator, the civil economist, the moralist, and I may even with safety add, the divine. Would that these united classes may construct a plan worthy of the nation's confidence, and entitled to the nation's prompt and vigorous adoption!

Three things, I think, must appear manifest from your articles and these remarks.—First, That whatever depresses agriculture in an unreasonable degree, is a most serious injury to the community at large.—Secondly, That the manufacturing and commercial interests, especially the former, must find their real interest in not declining to aid, both by increased pecuniary contribution and increased deliberation, measures to relieve the burdens of the poor.—And, lastly, That no hope is to be entertained of having a strictly religious, moral, useful, and serviceable poor population, till they can be awakened to a sense of the credit and advantage of sup-

porting *themselves*, rather than being supported *by others*.—If these maxims be true, enough has been said to entitle the present subject to the deepest consideration of every lover of his country.

I am, with great respect, Sir,

Your obedient humble servant,

FRANCIS MEREWETHER.

Cole Orton Rectory,

February 1, 1828.

POSTSCRIPT.—The case of the township of Thringstone, within the parish of Whitwick, deserves to be noticed, in connexion with the remarks from pp. 154—157. In this township, consisting of about 870 acres, nearly £800 will be raised for the poor this year; that is, almost a pound an acre. The population, too, is almost of the same description as that of Whitwick: only that there are a few, though but a few, more opulent landholders and others; and the land of this township is certainly for the most part better.

A
SPEECH
ON THE
PRESENT STATE
OF
THE LAW OF THE COUNTRY;

DELIVERED IN THE HOUSE OF COMMONS

ON THURSDAY, FEBRUARY 7, 1828.

BY HENRY BROUGHAM, Esq. M.P. F.R.S. &c. &c.

LONDON:—1828.

MR. BROUGHAM rose to bring forward his motion touching the State of the Law in this country, and spoke to the following effect:

Sir,—In bringing before the House certainly one of the most important subjects which can possibly interest the legislature, I feel deeply impressed with the consideration, that it is one of the most difficult, and the largest, to which their attention could be drawn. I stand engaged to bring before the House the state of the common law of England—the common law, as contradistinguished from the equity administration in certain parts of the judicial system—with the view of pointing out the defects which existed in its original structure, or which have subsequently been introduced into it by the gradual operation of time, as well as of suggesting the remedies which, in both cases, are applicable to its correction. In undertaking so difficult a task, nothing strengthens me, or bears me up so much, as the consideration that parts of this system have long ceased to be venerated, have been touched with a view to improvement, and are now in the hands of those who will do the necessary justice to their several undertakings. I feel, too, supported by the conviction, that this inquiry is no longer to be avoided, and that I can approach the subject with the respect to which venerable institutions are entitled; and that, above all, I can come to the discussion without uttering one word tending to hurt the feelings of any of the classes in whose hands

the administration of justice is confided. Not one of them will be either prejudiced or offended—no personal feeling have I to mingle with or introduce into the consideration of so weighty a subject. I feel a confidence unspeakable, too, which rests on other grounds. I have not to cavil or dispute topics before men ignorant of the details of the subject, or prejudiced against the acquisition of information on it; nor do I seek any triumph by the display of technical skill in the exposure of technical difficulties. I am likewise strengthened with the knowledge that, from accidental circumstances, I have derived from professional experience a practical and thorough acquaintance with the topics to which I mean to allude; and I beg to assure the House, that in no one instance will I touch on any defect or abuse in the administration of justice, of which I have not obtained direct knowledge, while employed for one party or another in the progress of my professional avocations. Before stating to the House what I mean to propose for their consideration, I shall mention those branches of the law which it is not my intention to take up.

In the first place, I shall avoid the Courts of Equity in every branch, unless where, from their incidental commixture with the business of the common law, I am compelled to allude to them; not because I think nothing should be done in the reform of those courts, but because they have been, in some sort, already taken up by Parliament, and the Lord Chancellor has himself announced his intention of bringing in a Bill, in pursuance of the recommendation of the commissioners, who have already delivered a report on the object of their inquiry. The condition of the courts of equity in this country has also been long taken up, to his great honor, by my learned friend (Mr. M. A. Taylor), who will no doubt still direct his talents and energies to the completion of the task which he has undertaken. For reasons of the like kind, there are a great many parts of the criminal law from which I am relieved in this inquiry. Happily, since the days when an eminent and lamented friend (Sir Samuel Romilly) had devoted his great talents and long experience to the investigation of the criminal law of this country, and since another honorable and learned friend, the member for Knaresborough (Sir James Mackintosh) had followed up the same arduous inquiry, that subject has fortunately received the countenance and protection of a right honorable gentleman opposite (Mr. Peel), whose patronage of it, coupled with his official power, and consequent means of executing whatever he thinks proper to recommend, is, as it must be, in the highest degree advantageous to the cause to which he lends his aid. Besides, the right honorable gentleman's connexion and influence with the Church and State tended, when he (Mr. Peel) took up the business, to silence

much of the alarm which had been sounded against what was deemed change and innovation. I hope that the right honorable gentleman is seriously disposed to proceed with his good work, for I cannot think he means to sit down now, and say, "So far have I gone, but no farther." If he could so prematurely conclude, then indeed it might be said that little had been yet accomplished. But I trust the right honorable gentleman will still apply the energies of his mind to the further work of reformation that must be effected before the task can be said to be finished.

There is another reason why I propose to avoid bringing in, as if by wholesale, the wide subject of the criminal law into the present consideration. It would not be right to unsettle the minds of the large mass of the people in a matter of so much delicacy and importance as the revision of the criminal law; besides, I know it is in detail in the hands of others. There is also another branch of law which I shall exclude from present consideration—I mean the code of commercial law; it lies in a narrow compass—it has been formed by degrees, according as the exigency of international affairs has called for it. It has been accepted by other states as well as Great Britain, and is not so pressing for alteration as other parts of the law of England. Lastly, I shall not advert to the law affecting real property, which forms so extensive a part of the legal system of this country;—not that I might not derive from it many points, in illustration of the argument which I intend to advance, or that I might not with justice propose many changes in it; but because I flatter myself that the Secretary of State for the Home Department, who has long been working with a systematic view to the amelioration of the law, will not overlook this portion of it. Here I cannot avoid alluding to the reform of the criminal law, and I would say to the general improvement of the law, effected by the meritorious labors of the late Sir Samuel Romilly, and by the strenuous exertions of the honorable member for Knaresborough (Sir J. Mackintosh,) both of whom merited the thanks of their country. The same debt of gratitude is due for the excellent, luminous, and comprehensive investigation of this important subject, by one of the ablest lawyers and conveyancers in this country, Mr. Humphreys. With the exceptions now stated (and I have to apologise for keeping the House so long in pointing them out, but it is necessary for me to explain what I do not mean to touch), I will address myself to this difficult and extensive subject.

After this explanation, the House will, I conceive, see at once the object and purpose which I have in view. I shall not enlarge on the infinite importance of this question, or dwell on the high, the paramount necessity for the representatives of the people taking

it up in the spirit of deep and serious deliberation : but I must say that if we view the whole establishments of the country, as regards the government of the King, and the estates of the realm ; be those establishments military, as respects either the land or naval force of the empire,—whether we turn our eyes to any other part of the system,—to our foreign relations, which are intended to preserve peace with the world,—to our domestic relations, which are necessary to cause the Government to be respected by the people, or to our fiscal regulations, by which the expense of the whole is to be supported;—still, I venture to assert that they all shrink into nothing, they become insignificant, when compared with the pure and prompt administration of justice throughout the empire. I would institute no such comparison. All the establishments formed by our ancestors, and supported by their descendants, were invented, and were mainly and principally maintained, in order that justice might be duly administered between man and man. And, in my mind, that man was guilty of no error—he was a party to no exaggeration—he was led by his fancy into no extravagance—who had said, that all we see about us, Lords and Commons, the whole machinery of the State, is designed to bring twelve men into the jury-box, to decide on questions connected with liberty and property. Such was the cause of the establishment of Government—such was the use of Government : it is that purpose which can alone justify restraints on general liberty—it is that only which can justify any interference with the freedom of the subject.

I now invite the House to enter on an examination of this subject ; to proceed into the different Courts—to mark what failures, in practice, are to be found in the system, as it was originally formed, as well as the errors which time has engendered by a departure from that system ; and then to consider whether we might not, safely and usefully, apply to those defects remedies of a reasonable and temperate nature. In the first place, let us proceed to the Courts in Westminster Hall, and observe the course pursued in them. Let us examine the proceedings in the Courts of King's Bench and Common Pleas. Though the jurisdiction of these two Courts was originally confined within separate and narrow limits, yet now they approach very near to each other on almost all subjects. The jurisdiction of the Court of King's Bench, for example, was originally confined to actions where violence was used—actions of trespass by force—and pleas of the crown. But that Court has, by various fictions, extended its jurisdiction most materially. One of these fictions is, that every person against whom an action is brought is supposed to be in the custody of the Marahal, by which means the whole of that jurisdiction which was formerly confined to the Common Pleas has been handed over to

the King's Bench. The Court of Common Pleas was not so fortunate as to regain the exclusive jurisdiction which once belonged to it. An attempt was made with that view under the Lord Keeper Guilford, but it did not succeed. I trust the House will allow me, as a little divertisement in the midst of so dry a subject, to state the nature of the contest between the two Courts, as described by Roger North, in his Biography of the Lord Keeper—a work with which I am sure my learned friend (the Solicitor-general) is as well acquainted as he is with the most profound and learned subtleties of his profession. The biographer says, “the Court of Common Pleas was outwitted by the King's Bench, until his lordship came on the cushion; and his lordship, by an artifice, endeavored to restore the business of the Common Pleas. Sir Matthew Hale complained of this new fiction, though, by a similar *trickum in lege*, the Court of King's Bench had run away with all the business.” The author further observes, “In law there ought to be a competition for practice. The King's Bench was originally confined to pleas of the crown, yet they have, by a fiction, which supposes, whether a man owes any thing or not, that he is a debtor, contrived to draw many common causes to them.”

Now, these two Courts have not a competition with each other, which arises out of the peculiar circumstances I am about to state. In the first place, the Court of Common Pleas shuts its door against many practitioners, in consequence of a fee exacted from attornies at the commencement of every term. Although that fee is very trifling, being but 12s. 4d., still it operates to prevent solicitors from going to that Court. There is also a certain proportion of other fees to be advanced by the attorney in a much earlier stage of the legal proceedings than is customary in the other Courts. The attorney in town, or, if he reside in the country, his agent, has to advance this money out of his pocket in the first instance, and is not always sure of having it repaid. There is also another cause which tends to lessen the practice in this Court, to which I shall now refer; but in doing so, I speak with all deference of those most learned persons who possess an especial and exclusive right to practise in the Court of Common Pleas. That Court is not open to all the members of the profession, but to serjeants-at-law only; they alone have a right to conduct causes there. I know perfectly well that very great expense is incurred by these gentlemen in prosecuting their education, and readily admit that they are able expounders of the law; but the question is, whether it is a useful practice to exclude other practitioners from that Court, and whether it does not tend to lessen the number of causes there, and to throw additional labor on the

Judges of the Court of King's Bench? Suitors, of course, have their favorites at the bar, and if they cannot avail themselves of their assistance in the Common Pleas, that circumstance must, *pro tanto*, drive suitors elsewhere. The Court of Exchequer, in like manner, though in another way, keeps suitors from prosecuting causes there. There is one reason why the Court of Exchequer, as at present constituted, cannot, in my opinion, do much business, or have the reputation of doing it; and that is, the various mixtures of suits which are cognizable to it. It is, in fact, a Court of all sorts—of equity and of law—of crown law and of common law—of law which decides between subject and subject, as well as of law that decides between the subject and the Crown; and suitors, seeing the business done in so many different ways, come to the conclusion that it is not so well done as it might be. I do not, however, believe that this is a correct opinion; because gentlemen employed in that Court do not, I am convinced, yield to any body of individuals in their knowledge of equity and law. There are in that Court many distinguished equity and common lawyers. In what, therefore, I have said, I refer merely to public opinion, which, whether right or wrong, has been engendered by the constitution of that Court.

There is, however, another reason which tends to render the Exchequer the least employed Court. If we have a monopoly of counsel in the Court of Common Pleas, there is a monopoly of attornies in the Court of Exchequer. There are, in that Court, four attornies and sixteen clerks; and if an individual wishes to proceed in the Exchequer, he must employ one of those attornies. It is needless for me to say, that such a system has, of necessity, a tendency at once to shut the doors of the Court of Exchequer against suitors. What, then, is the consequence of those causes which prevent suitors from approaching the Courts of Common Pleas and Exchequer? Why, it is this,—wherever there is but little business done, it has a tendency to induce those in power not to place a strong judge in that situation, the small portion of business to be gone through rendering the judge less fit for his office, and, by a natural re-action, the less fitness of the judge reducing the quantity of business. I am here speaking of past times, with a view, however, to what may occur at a future period. We may not always have the bench so well filled as at present. The time may come, when, if a judge is to be made, in consequence of political influence, who is known not to be capable of properly filling the office, it may be said by those who support him, "Oh, it does not matter; send him to the Court of Exchequer." Thus, the small portion of business transacted in the Court of Exchequer—the suspicion, originating in the general

mixture of suits carried on in different ways, that the business is not done,—the monopoly of attornies, together with several other causes, and not the unfitness of the judge, occasion this Court to be the least frequented of any. From these circumstances, the judge does not sit sometimes for more than half an hour in the morning, and perhaps there may not be on the paper more than six or seven causes, when I well know that Lord Ellenborough, when Chief Justice of the King's Bench, had at one time 558 causes set down for trial in London only; and the present Chief Justice has had on his paper no less than 840 untried causes. I mention this to support my first proposition, that there is not a competition between the different Courts. To say that there is a competition between the Courts—to say, under the circumstances stated, that suitors have a free access to all, is a fiction—such an assertion is not founded on fact. Experiments have been tried to remedy this state of things, but they were unsuccessful. The first of these was in 1821, when the Chief Justice sat in one Court, and a puisne judge in another. That experiment failed entirely. There was no business done before the puisne judge, and the experiment was tried only for a short time—I believe for not more than one year. Where that action and re-action before spoken of exists—where there is little practice in Court—we are likely, *in majorem sensum*, to have worse judges to try causes; while, on the other hand, great and extensive practice must inevitably form better judges and more acute counsel. There is, however, no other way to produce an equality of business, but by really throwing open the Courts, removing monopolies, and leaving it to men's own discretion to select as they please. In 1821, the Chief Justice sat in one Court, and a puisne judge in the other, but the business all went to the former.

Another experiment has since been tried to lessen the pressure of business on the Chief Justice—the experiment still going on under the Bill of the right hon. gentleman (Mr. Peel). That experiment—the measure being compulsory—has not failed; but I sincerely wish it had failed; for that measure has done a great deal of mischief. It was the worst change that could have been devised. Where the Court of King's Bench meet, with the Chief Justice presiding—where the suitors resort—where the bar is mustered—where the public attend—where both counsel and attornies appear—where the business is disposed of, as it ought to be, gravely and deliberately, with the eyes of mankind, the eyes of the bar, as well as the world at large, turned on the proceedings,—would not all persons declare that to be the Court in which important legal questions ought to be decided? Would not the world, on the other hand, say, if another Court were instituted, in which

two counsel and two attornies were present, the one in the cause on, the other in the cause that was to follow, where there was no audience, and the public eye was entirely directed from that to the other Court,—would not the world, I ask, say, that a Court so constituted was that in which the trifling business should be transacted? But under the Bill to which I have alluded, the very contrary effect is produced: all the important business is transacted before three judges, and in the dark; for when only two counsel and the attornies in the case are present—when the great body of counsel are absent—and the public are in the other Court, where the Chief Justice presides, I consider that the business is, in truth, done in the dark. An immense mass of trifling business frequently occupies the time of the Court, which might be disposed of elsewhere; and thus the more important business might be expedited. Thus, a motion for judgment, as against the casual ejector, which is a motion of course—a motion to refer a bill to the Master, to report the amount of principal and interest, which is a motion of course—a motion for judgment in case of a nonsuit, which is a motion of course—and a thousand others, are heard with the utmost attention to publicity, before the whole Court—before the whole bar—before the whole body of attornies—before the whole public,—all of which might be settled by the judges at chambers. The consequence is, that much time is lost, and the most important business—special arguments, raising the most important legal questions—are obliged to be heard in the private, unsatisfactory, and inefficient manner I have described. I wish this system to be remedied, because it is a great and growing evil. It may be said that the judges have not time to do the business. I deny that: there is time. Six hours a-day, well employed, is amply sufficient for the purpose. Let them come down to the Court at ten o'clock in the morning, and remain till four—a period of six hours—and the business might be done. But the system is at present extremely ill arranged. In the first place, one of the judges is called on to attend in the Bail Court, and sometimes he remains there all day, as Mr. Justice Bayley was obliged to do on Monday last; and in the same way, Mr. Justice Holroyd was this day prevented from doing any thing until twelve o'clock. A second reason for the delay of business, is the time occupied at chambers at Serjeant's Inn, with the squabbles of the attornies—for barristers very seldom attend there. This business formerly was done in the evening, but now it frequently keeps a judge away till twelve o'clock. Thus, by attending to this trifling business at chambers, the judge can only give his attendance for four hours instead of six. It may be said that though commissioners might be appointed to take bail, yet they could not transact the chambers

business so satisfactorily. Barristers of five or six years' standing would be sufficiently skilful to take bail cases; but it was argued that it was necessary for the business at chambers to be transacted by the judges, in order that they might repress, if necessary, the proceedings of certain men. Now, for my part, I could never see the magic power of the number twelve, although Lord Coke had expressed himself as much enamored of it as an algebraist would be of the number nine. Lord Coke thought thus highly of it, perhaps, because there were the twelve Apostles, and the Laws of the Twelve Tables. I am, however, of opinion, that the number fourteen is equally efficacious. It is divisible by seven, which twelve is not; and it has, in my mind, this great advantage, that though in theory and history it does not appear so prominent as Lord Coke's favorite number, it happens to be two more than twelve. If twelve were considered to be the proper number of judges in Lord Coke's time, I think no objection can at this day be offered to the addition of two, considering that the business has increased tenfold. It cannot be argued, when there are 800 causes for trial at Guildhall, that twelve judges are sufficient. That number might have sufficed when Lord Mansfield lived, in the late reign; at which time, perhaps, sixty causes might have been set down for trial; but is it sufficient now, when 600 or 700 causes are to be heard? How the judges are to get through all the business now, is utterly beyond my comprehension. This is one of the illustrations which I feel it necessary to give, in answer to the heedless and senseless folly of those who charge the judges and the lawyers with causing all the delay in legal proceedings.

How can it be expected that twelve judges can go through the increased and increasing business now, when the affairs of men have become so extended and multiplied in every direction—*maxime remum novetur*? Those who advise an increase of the judges beyond their present number are not innovators. The innovators are, in truth, those who stand still while the world is going forward,—those are the innovators who would only employ the same number of laborers while the harvest has increased in a tenfold proportion,—they are the innovators who, adhering to the ancient system of having but twelve judges, although the labor is infinitely increased, neglect to keep up the equality, efficiency, and fitness of the establishment; but they are not innovators, who introduce and apply additional power, when the business to be done has exceeded all former bounds, and wish thus to preserve the equality, efficiency, and fitness of the judicial establishment. The advantage of this addition will appear still more clearly, when it is considered that it would give us the opportunity

of reforming the system with reference to the Welsh judges, which is an extremely objectionable one, and which cannot be done while there are only twelve judges. If two more judges were appointed, the principality might be divided into two circuits, and the newly-appointed individuals might go circuit with the other judges; and they might also assist at the Old Bailey Sessions. I highly approve of paying the judges by salaries, and not by fees, as a general principle; but, so long as it is the practice not to promote the judges, but to shut the door against the efforts of their fair ambition, so far must we find a tendency in those men to become less active in their exertions than they would be if some little stimulus were placed before them. I therefore would hold out a certain inducement to them to labor vigorously, by allowing them a certain moderate amount of fees. I say a moderate amount; and if it were thought expedient to pay them in part by fees, it should be ordered that such fees should not be in proportion to the length of a suit, or the number of its stages, but that the amount should be fixed and defined. I am quite aware that this mode of payment is not likely to meet with general support, especially with the support of the reformers of the law; but I state the proposition as the result of long reflection, which has produced a firm conviction on my mind that such a plan would be a beneficial one. The great object of every Government in the choice of judges ought to be to obtain the most skilful and learned men, and also to take care that the excellence of their character afforded the best security for their pure administration of justice. I am ashamed to state so mere a truism, but the House will presently see its application. Our present system, however, sins lamentably in both these respects. In the appointment of judges it would naturally be required that the whole field of law should be thrown open, in order that the selection might be properly made. The judges ought to be chosen from amongst the men most learned, most accomplished as advocates—men who have judgment to try causes ably—men who have large and enlightened views of legal questions, and who are prompt and expeditious in seizing on the bearings of a case. There ought not to be, in choosing judges from the bar, any exclusive restriction. He alone ought to be selected, in whom talent, integrity, and experience, most abound, and are most united. The Minister of the Crown might go into Westminster Hall, and choose the ablest man there. Be his talent what it might—be his character what it might—be his party what it might, no man to whom the offer was made would refuse to be a judge. But, in consequence of a custom that would be “more honored in the breach than the observance,” party is too much studied in

these appointments. One-half of the bar is excluded ; for no man can be a judge who is not of a certain party. Unless he be a person known to adhere to a certain system of Government,—unless he profess himself to be devoted to one system of policy,—unless his party happen to be the party connected with the Crown, there is no chance for him ; that man is sure to be excluded. Let any person point out, if he could, a single instance where a man, known to be in party fetters, and opposed to the Government, had, during the last hundred years, been promoted to the bench. I know of no such instance in England. I have, indeed, known one or two instances where promotion of that kind has been conferred on men who have changed their party. This was not precisely the case in Scotland. The right honorable gentleman opposite (Mr. Peel) has done himself great honor, by recommending Lord Cranstoun, who is a party man ; and Mr. Clerk, Lord Eldin, who is in Scotland a greater party man than Lord Eldon is in this country. I should like to see the same impartiality acted on in England. It is of importance to the pure and able administration of justice that it should be so ; but I despair of ever seeing such a course adopted. If all Westminster were to be called on, in the event of any vacancy unfortunately occurring on the bench, to name the man who is best suited to fill that vacancy, to point out the individual whose talents and integrity best deserve the situation—whose exertions would be the most likely to shed blessings on his country—can any person doubt for a moment whose name would be echoed on every side? No ; there cannot be a doubt as to the individual who would be named by those most competent to judge ; but then he is known to be a party man, and that being the case, all his merits, even were they far greater than he is admitted to possess, would not command his promotion.

I blame this mischievous system, by which the country has lost the services of some of the ablest, most learned, and most honest men in the country. But judges must always be Tory judges, though for what reason I know not. Why should the bench be for ever a ministerial bench? And yet it always has been a ministerial bench, except, indeed, during those visits “few and far between,” when the Whigs came into office for five or six months ; and then, perchance, we might happen to have a Whig judge. I wish to see the choice extended : I wish to see it fall on men, not because they are party men, but because they are strictly impartial men. I speak impartially ; but when there is a Crown cause, a case of libel, or any such matter, before the Court, there is—there must be—uniformly a certain leaning one way. The judges have this leaning, and they cannot help it,

because they know that they are there, and cannot forget how they came there. I speak from a sense of justice and propriety, and not in the least degree interestedly. I would never take a puisne judge's situation. I could not, indeed, afford to take any such situation. I speak, therefore, not for myself, or with the least reference to myself, but for the country, because I feel this to be a matter of the deepest importance; and from the right honorable gentleman (Mr. Peel) before me, now that he has returned to the Home Department, I really expect to see this become much more a subject of observation than it has hitherto been. I fear I have already tired the House by the extreme length of these details; but I will now take leave of Westminster Hall, and say a word or two respecting the manner in which the administration of the law is carried on in Wales. Why, I ask, because it is called the Principality of Wales, should it have a power over life and property to which no parallel can be found in England? Why should the administration of the law in Wales be different from that in England? In Wales they have judges—able gentlemen, no doubt; I do not mean to say less able than in England,—but certainly no more able, either from talent, information, or experience, than those who fill what Mr. Roger North called “the cushion in Westminster Hall.” In general they are men who have left the bar, and retired to the pursuit and occupations of country gentlemen: perhaps they are not for that the less fit to be made judges, but not so fit as the others I have mentioned. In other cases, they continue in Westminster Hall; and this is so much the worse; for, being barristers half their time, and judges the other half, they are, for that very reason, the less likely to make either good barristers or good judges. But the great objection is, that they never change their circuits: to whatever circuit they are appointed, over that they continue to preside; and thus it happens that they become acquainted with all the landholders of the neighborhood—with the gentry,—nay, even with the very witnesses who come before them. The names, the faces, the very characters of these persons soon become familiar to them; and out of this grew likings and prejudices which never do, and never can, cast a shadow of shade over the twelve judges of Westminster Hall. Then, again, Welsh judges have no retiring pensions: and now mark the result.—Last autumn, on one circuit, forty-six causes were entered for trial. How many were actually tried? Twenty—but twenty—and of these causes the greater part stood over ever since the last circuit. Is it not quite evident what ought to be done? Let pensions be given to men who have become too old to discharge the duties of their office, but who very seldom become too old to cling to the emoluments of it. I am sure

it would be the cheapest pension that could be given, and that the Principality would never dream of objecting to it. At all events, let two judges be added to the present number. Let the Common Pleas and the King's Bench be kept open; let the delay arising from chamber-practice be avoided; let the Principality of Wales be divided into two circuits; and then we shall have well done and quickly done. And here I would observe, that the matter of circuits requires a word or two. Not, perhaps, that it is of so much importance as others that I have already, or shall presently touch on; but then it regards judges, barristers, and solicitors, and will be of no little advantage to the country. I should be most glad to see that folly—for really I cannot call it by any other name—that most absurd and vexatious mode of regulating Easter by *moons*, as it is called, entirely done away with. Let the returns be made certain, and leave moveable feasts to the church. I have no wish to interfere with the church; let the church be regulated as you please; but let this inconvenience in the law be remedied, and let the returns be made on some certain day.

It will be recollected, that when a Bill was introduced to fix Easter Term, Mr. Justice Rook exclaimed, "Good God! think of the horror of depriving the whole Christian community of the consolation of knowing that they all kept Easter on the same day." Let it be understood that I have no wish, not the least desire, to deprive the Christian community of this consolation, if consolation they find it; they may enjoy it still, but business ought not to be sacrificed to their ideas of comfort and consolation. There is no inconvenience in Easter being moveable, but there is a very great inconvenience in making the returns moveable. As we are now happily a purely Protestant country—and the more so, and the more likely to remain so, since we are now under his Grace the Commander-in-Chief—surely all the remnants of Popery, and above all, such inconvenient remnants as this, ought to be done away with. Let Easter Term always begin on the 10th of April, and the inconvenience will cease. There is no error so foolish or so vulgar as that which leads people to believe that the more the law is perplexed by the intricacies of its proceedings, the more advantage results to the country. The fact is quite the reverse; for by those means, we make inferior, both in rank, in feelings, and in accomplishments, that profession out of which the judges of the land must come. But much more ought this certainty to be effected, when it is clear that it is productive of advantage to the country. To fix Easter Term four or five weeks earlier or later, would be a great convenience. Now, observe how hard the present system falls, for instance, on those who, like myself, frequent the northern circuit. I reached home last year,

after a period of extremely hard labor, on the 20th or 22d of September, having left it on the 10th of October in the preceding year, in order to enjoy a vacation of one fortnight—for Lord Tenterden fixed the sitting before term for the 9th of October. I was one of those who joined in requesting his lordship to postpone his sittings to a later date. Lord Tenterden, than whom no man is more anxious in the discharge of the duties of his office—who is never more happy than when he is hearing causes—who is most indefatigable in getting through the business before him,—said he should be most happy to oblige the gentlemen of the bar, and that he was glad in having an opportunity of accommodating them. With this, his lordship very kindly postponed his sittings, from Tuesday the 9th to Tuesday the 16th, for one week. For my part, I felt very much obliged to his lordship, even for a week; I could have wished it had been longer; but his lordship said, that from the state of the paper it was all he could grant. His lordship's paper was, doubtless, extremely heavy; and too heavy it must always be until some other system is adopted. If we could have two judges sitting at *Nisi Prius* at once, each of them taking a particular class of trials—the one confining himself to the heavy business, and the other to bills of exchange, promissory note cases, and the like—the whole business of the Court could be got through properly, and with despatch; but as the law now stands, it is utterly impossible for any man, in days consisting of no more than twenty-four hours, and laboring for eleven months in the year, to dispose of the business before him. I say for eleven months; for the Court, with the exception of a day or two of respite, sat for eleven months last year. If it be said that all real actions should have their domicile in the Court of Common Pleas, then actions which in their nature are partly real might be carried there too. In the same manner, other causes might be disposed of in the Court of Exchequer—a reform having first of all been made in that Court. Let the Chief Baron sit in equity; and a more able and learned man than the present Chief Baron we never can have for this purpose. Let him really sit and hear cases in equity, which might be done with great advantage, and which he is expressly authorised to do by Act of Parliament passed for that purpose, though I have never heard that he is in the habit of so sitting. With one Baron, then, sitting in equity, and one to the other business of the Court, not of an equitable cast, let the others be divided between the Courts of Common Pleas and King's Bench, and we shall not only relieve the King's Bench of a weight of business which is now become almost intolerably oppressive, but find, in the effect produced, both in the judges and the practitioners, the happy consequences which always result from a just

division of labor. And now I come to speak of the Courts of Civil Law; and confess that I approach to touch this subject with tender, and almost, I may say, with a trembling hand, because I have not the same means of judging of these as of the other Courts, and am not, therefore, so well able to appreciate the good, or expose the bad, points in the constitution of them. The observations, however, which I have to make on this part of my subject, resolve themselves into points which have reference to the judges of these Courts. In the first place, I would have them paid better: there would be no objection, I apprehend, to this on their part. At present they are greatly underpaid. Take, for instance, the Judge of the Admiralty Court, who fills the highest, the most important trust of all, if we consider the fearful amount of property which is disposed of by his decrees. His salary is only 2500*l.* a year; but—and I beg to call the attention of the House to this important fact—that judge's fees amount to 7500*l.* in time of war; in time of peace there are no fees. I confess that I do not like to see a judge of this character, who decides on the property of neutrals—on international questions—who advises His Majesty on points of the utmost delicacy—paid in so dangerous a manner, and find so wide a difference between his salary in time of war and his salary in time of peace. I beg to be perfectly understood: I do not say this with reference to anything that has happened in consequence of this mode of paying the Judge of the Admiralty Court, but because I do not think it wise—I do not think it safe—I do not think it decent, to make so large an increase to a judge's salary depend on whether the horrors of war or the blessings of peace frown or smile on the country.

Another point is the manner in which the judges are appointed; and here we meet with one of the worst, one of the most dangerous, relics which Popery has left behind her in this country. With the exception of the Judge of the Admiralty Court, who is appointed by the King, all the civil judges who decide on questions of marriage and divorce, and on the validity of wills—those judges who dispose of these the most difficult and the most delicate questions that can ever arise,—these judges are appointed, not by the Crown,—not by a minister who is responsible, and who can be removed, but by the Archbishop of Canterbury and the Bishop of London, who cannot be removed,—who are not lawyers—who are not statesmen—who are not politicians, but are priests, of a high order it is true, but not for that reason the more fit to have anything to do with the nomination or appointment of judges. So it is at York, where the judges are appointed by the archbishop; so in all other ecclesiastical courts, where the judges are appointed by the bishops of the respective dioceses in which they are situated. It is true

that an appeal lies from them to the Court of Delegates; but then it is equally certain that the Court of Delegates is the greatest mockery of a court in the world. I will show how this power of appeal to that court, and to no other place, makes the matter worse instead of better. See how that court is constituted—how the judges are appointed. It consists of three common law judges, and about half a dozen doctors; so that, in point of fact, the appeal is from judges of as much learning and research as Lord Stowell, and Sir John Nicholl, and Sir Christopher Robinson,—the great luminaries of the civil law in this country,—to four or five doctors, who are of course the worst in the Court, because they are the youngest, and have little or no business,—for to have been engaged in the cause would be a bar to their sitting as judges. In a word, this proceeding is about as absurd as though, in a cause which had been tried by Mr. Justice Holroyd, Mr. Justice Bayley, and Mr. Justice Littledale, the appeal should lie to three gentlemen who, having been called to the bar the preceding day, had not been in the cause, because they had not had an opportunity of being in any cause at all. This is all I have to say respecting the Courts of Civil Law. But, Sir, I beg leave to say, and especially in addressing you, that in what I have said respecting the manner in which the judges of the Civil Courts are appointed, I did not intend to say anything that is at all disrespectful to those high dignitaries of the church to whom I have alluded. There is no man more ready than myself to acknowledge and to respect their virtues as prelates, their acquirements and talents as scholars, and their accomplishments as gentlemen.

I have now come to another Court,—to that tribunal which is called the Privy Council. This is a most important court, because it not only decides on matters of law, but because a committee of this court sits in judgment on cases in which their decision is final. The most important part of its jurisdiction is, perhaps, the hearing of plantation appeals. The isles which stud the sea in the east, and those in the Archipelago of the west—peopled by various castes, great in number, and abounding in wealth—some of them extremely litigious, as the children of the new world are generally found to be—thronged, too, by crowds from every part of the world, who come to speculate, to barter, and exchange,—these vast numbers, scattered over a domain of so great an extent, are all under the jurisdiction of the Privy Council. In some of the places over which its jurisdiction extends, the Dutch law prevails; in others the Mahometan law; in others the civil law: yet all the inhabitants of these places must come and prefer the decision of their disputes to the necessarily ignorant Privy Council. To mend their ignorance would require time, a very long time. It would be

necessary to form a bar who should confine their practice exclusively to these subjects and to this court. Still, however, even this would not do. Let it be effected, and I will show that it can do nothing. From the returns before the House it will be seen that, in the space of twelve years, the Privy Council has sat only nine days in the year;—nine sittings in a year, to decide all the litigations of all these settlements, in which are included the establishments of Calcutta and Madras! They had only nine sittings in which to decide all the causes that might be appealed to them from 70,000,000 of people! Only nine sittings to decide all the appeals which all the litigation of Ceylon, the Mauritius, and all the colonies of North America, might furnish them within a year!

I need hardly say that this did not suffice, though the appeals in these twelve years were by no means so numerous as might have been expected. I marvel that they have been so few: no, I am wrong to say I marvel, because there is a very good reason for it. The most efficacious mode to prevent the frequency of appeals was, to shut up and never to decide those that had been lodged. In these twelve years, there were 467 appeals, to which might be added 50 from India, making in all 517, and the number disposed of amounted only to 248. The total number was certainly reduced by 249 in the twelve years, but the House must not suppose that even these were decided. Of this number of 248, only 129 came to a hearing; the remainder were either compromised, or *non pros*. entered on account of the delay. Taking, therefore, all that have been heard during the twelve years, they average about ten causes a year, or one and one-ninth for each day of sitting. Of these 129, it must also be observed, that 56 of them were merely reversed, which must frequently happen from the very constitution of the courts in some of these happy countries. In one court a worthy captain is a judge, and a major is the chancellor in another; and then the learned and gallant chancellor,—for they found there, as we now find here, that a mixture of the military and civil character is not objectionable—made the nature of appeal very simple and intelligible to every person. But, as in courts elsewhere, so it is with the Privy Council. There are lay-lawyers among them as well as among other judges. There is, generally, only one judge—the Master of the Rolls—and he has a great deal to do in his own court; the rest are lay-lawyers. An honorable gentleman, whom I see opposite, is sometimes there; but he is a lawyer, and is always of a great deal of use: but, on ordinary occasions, the Master of the Rolls, only, sits in company with two persons—the one an elderly gentleman, who, I believe, has been an ambassador somewhere, and has been educated as a lawyer; the other a puiſne Lord of the Admiralty, who has never been either an

ambassador or a lawyer, though, if he had been educated for both, would, no doubt, have been very competent to be either. Such is the court which sits in judgment on the property of so many millions of our fellow-subjects, and which, on one occasion, decided a case which involved property amounting to 30,000*l.* a year in the space of five minutes; thereby reversing a judgment which had been pronounced by the four judges of Calcutta, after a solemn discussion of nineteen days. The House, however, has already seen that promptitude of decision is not the general characteristic of this court. Before I pursue this account any farther, the House will, perhaps, allow me to mention a case which came under my own knowlege, by way of illustration—a case which arose out of the disputes of persons claiming the right of succession to an Indian principality: it had been decided in several courts in India; the appeal to the Privy Council was lodged in 1814, and is not yet decided; but the country, in the mean time, has been taken in execution by the Company; and I know, of my own knowlege, that ever since the death of the Queen of the State, on whose decease the dispute arose, it has been in precisely a similar situation to that in which property would be in this country, if it were in the hands of sheriffs' officers. I shall say now no more on this matter, except so much as I feel it necessary to say, in order to remind the House that it is the worst of all follies, the most mistaken of all policy, to attempt to stop litigation, not by affording a cheap and expeditious remedy, but by an absolute denial of justice, in the difficulties which distance, expense, and delay, produce. The distance we cannot remove, if we would; the ignorance it is hardly more practicable to get rid of: then, for God's sake, why not give to these people what we have it in our power to bestow—a speedy and cheap administration of justice? Moreover, I would say, reform the judicature of India. I should like very much to know why there is such an exclusion of jury-trials in the courts of India. I know, and every body else must know, who has taken the trouble to inquire, that natives are eminently capable of applying their minds to such matters, and that they possess powers of discrimination in a very high degree. Men are sent out there: they go out safely—to make money if they can, and to administer justice. And there they sit—in total ignorance of the language, in total ignorance of the manners, the habits, the customs of the people, and wholly dependent on their pundits for information on all these subjects. The House will not suppose that I mean to insinuate for a moment the possibility of suspicion as to the conduct of the judge in this position or case. I am sure that the party who occupies that high office would rather cut off his right hand, if the alternative were

put to him, than take the bribe of a bean to misdecide a cause that comes before him. But I feel by no means so secure of the pundit on whom the judge is necessarily dependent. The experiment, in fact, of trial by jury, has been made; it has been made in Ceylon, where it was at first resisted, but afterwards met with complete success. I am acquainted with a particular case, indeed, the details of which are too long to lay before the House, but in which the superiority of a tribunal of which the natives of the country formed part, was completely demonstrated. It was a case of a trial for murder, in which, out of a jury of twelve persons, eleven were disposed to find the prisoner guilty. One young Brahmin alone held out; and displayed such extraordinary talent in the analysing of evidence, with so much tact in cross-examining witnesses, that, in the end, after the whole court and the whole bar had tried their powers in vain, he succeeded in bringing over the other eleven, and the accused party was acquitted. This is not surprising, when it is considered that the Brahmin had the advantage of speaking his own language, while the judge spoke necessarily through the medium of an interpreter: but it demonstrates the advantage of the jury system, and it prevented a consummation little short of murder—an innocent man from being executed.

For considerations which I might press on the House without end, I insist on the expediency of the system of trial by jury. Nothing is more calculated to conciliate the minds of the natives, than allowing them to form part of the judicial tribunals to which they are subject. It gives them an understanding of the nature, and with the nature, of the justice of the law by which they are governed, and an interest in supporting it. Let us introduce this system, and we shall have the hearts of the whole people of India with us—a stronger defence, and a cheaper, than our army of Sepoys. Let us give them satisfactory justice and available appeal, and the people of India, in case of rebellion, would do as the Singalese did to the last disturbances in their island—they would flock round our banners, and, instead of betraying us, aid us to crush the insurgents by whom our empire may be opposed.

I now come to the last article in the present division of my subject—a topic which I almost feel a horror, standing where I do, of approaching—the Justices of the Peace of the country, and their jurisdiction. Surrounded as I am, equally among my own friends, and on the other side the House, by gentlemen in the commission, it is a subject on which, it must be admitted, there is some delicacy in trenching. Nevertheless, considering the changes which have been effected in modern times, I cannot help thinking it worthy of inquiry, whether some amendment might not be made in our justice-of-the-peace system. The first doubt that strikes

me is, whether it is fit that they should be appointed as they are—merely by the Lord-lieutenants of counties, without the interference of the Crown. It is true, the Lord Chancellor issues the commission; but he relies entirely on the Lord-lieutenant, or the *custos rotulorum*: for it is in virtue of that part of his office that the Lord-lieutenant is so employed—for the selection of the parties. Now, I do not understand what particular quality it is peculiar to a Keeper of the Records, that fits him, above all other men, to say who should be justices of the peace. To me, indeed, the trust seems as absurdly and incongruously confided as it is possible that it could be. As regards the selection, I think it is as inconveniently provided for, as though the judges of the land were chosen by the opinion of some clerk of the Treasury. It might, perhaps, happen, that the choice would be judicious; but the arrangements would be but indifferent for securing that it should be so. However, the Lord-lieutenant it is who chooses the justices, and the Lord-lieutenant alone can remove them; for they can only be removed by the issuing of a new commission, in which their names are omitted; and this the Lord Chancellor never would consent to do, unless in cases where direct malversation is established.

It was laid down as a rule by Lord Eldon, from which no consideration, his lordship used to say, would induce him to depart; that however unfit a magistrate might be for his office, either from private conduct or party feeling, he would never strike that magistrate off the list, until he had been convicted of some offence by the verdict of a Court of Record. That was the resolution on which Lord Eldon always acted. No doubt his lordship felt that, as the magistrates give their services gratis, they ought at least to be protected: but it is a rule which opens the door to very constant mischief and injustice; and I could, if necessary, quote many cases in which it has been most unfortunately persevered in. In looking, however, at the description of persons who are put into the commission, I am not at all satisfied that the choice has been made with competent discretion; and on this part of the question I may as well declare at once, that I have very great doubts as to the expediency of making clergymen magistrates. This is a course which, whenever it can be done conveniently, I shall certainly be glad to see arrested. My opinion is, that a clerical magistrate, in uniting two very excellent characters, pretty commonly spoils both; and the combination produces what the alchemists call a *tertium quid*, with very little indeed of the good qualities of either ingredient, and comprising all the bad qualities of the two. There is the activity of the magistrate in an excessive degree—over-activity is (morally)

a very high magisterial crime; and almost all the magistrates distinguished for over-activity are clergymen—joined to the local hatings and likings, and generally somewhat narrow-minded opinions and prejudices, which are apt to attach to the character of the parish priest. There are some Lord-lieutenants of counties, I know, who make it a rule never to appoint a clergyman to the magistracy; and I entirely agree in the policy of that course, because the habits or education of such gentlemen are seldom of an enlarged or worldly description, and therefore by no means calculated to qualify them to discharge the duties of such an office; but generally speaking, as the House must be aware, through the country that rule does not exist. But the natural transition from the question of the system under which our county magistrates are chosen is to the nature and extent of the powers and interests which are intrusted to them; and when I only refer to one of these—the power of licensing public-houses—what a chapter of offence and misgovernment do not these few words open to our view! It is in the power of two magistrates, the House will remember, to give or refuse any man a license without assigning any reason for their decision. They may grant a license where it ought not to be granted, or is not wanted; or refuse one which ought to be granted, and is wanted; or grant one to a house which is newly established, and a nuisance to a neighborhood; or refuse one to a house established for a century, and against which no reasonable exception can be made; and all this without incurring any responsibility, or being bound even to give any explanation of their conduct. There is no power in the land by which a magistrate doing these things can be questioned or controlled. A rule of *mandamus* will not lie. I myself have moved for such rules, in very strong cases, calling on justices to grant licenses, and have been refused. In one case, a learned friend of mine obtained such a rule—in a very flagrant case—to the surprise of all the profession; but the only consequence was, that the rule was discharged, and the plaintiff made to pay the costs. Every body, in fact, is aware, that in such a case a *mandamus* will not lie. The only course is criminal information, or by impeachment; and no one thinks of impeaching a magistrate any more than of impeaching a minister of the Crown. For a criminal information, it must be shown on affidavit—on several affidavits, and to the satisfaction of the Court, which is seldom too credulous in receiving complaints against magistrates—that the party moved against has been wilfully and corruptly guilty of malversation. A hundred cases may occur, of the most clear and obvious character, in which, nevertheless, it would be impossible to produce affidavits to this effect; and even after they are produced, the magistrate has nothing to do but to come forward with a counter-affidavit, swearing that the motive

from which he acted were pure ; and unless the case is as clear as the sun at noon, the rule is discharged, with costs against the party who applies for it. But even this course by criminal information—the means of obtaining a rule, afterwards to be lost and paid for, on the oath of the defendant in person,—this consolation can only arise out of the exceeding folly and mismanagement of the licensing magistrate. He need only keep his own council ; do that which it is difficult sometimes to an angry man to do—hold his tongue, and his job is completed with the most perfect security. He has only, when the question comes on as to the license, to refuse it without assigning any reason : to grant a license, or take one away, without naming any cause. There is no law in the country which compels him or calls on him to state a cause ; and while he is silent, he is safe. The cause may be the very basest, or the most corrupt, that can be imagined, and the effect of a refusal the entire ruin of an honest man ; yet, if he has but an ounce more wit than *Justice Shallow*, and can hold his tongue, he may commit his injustice, and defy the consequences. The cause may be of preference between two inns on the north road,—that a justice has used one house as a brothel, and has not been permitted so to use the other ; and yet he has only to give his preference, without giving any reason for it, and I defy the losing party to make out a case, or obtain redress whatever. The fact is, that I can give the House but an imperfect idea of the abuses of this part of the magistracy system, for I have never been in the habit of attending quarter-sessions. What I know personally is but a little, and has arisen out of appeals from the sessions to the Court of King's Bench ; but I have been favored with information from quarters on which I can rely, and among others from a gentleman of the highest character and talent, himself a magistrate and bred to the legal profession, and who in a letter expresses the strongest disapprobation of the licensing system, as at present established ; one of the worst parts of which is, he thinks, that it places property to the amount of millions in the hands of an individual who uses his authority in the retirement of a private room. The only utility that ever belonged to the system was, that it perhaps afforded a ready remedy for the nuisance of disorderly houses ; but this power is now left wholly dormant, in favor of the interests of particular brewers, and the trick of putting a new tenant in where a house has been ill conducted, is resorted to, on the pretence that it is the occupant of the premises who is in fault, and that the house itself, being but bricks and mortar, can commit no sin. This is a device to which I wish particularly to call attention, because it is one on which I entirely agree with the individual to whose letter I have referred. It is mere imposture to talk of a new tenant, and of the bricks and mortar carrying no sin

—imposture which never can be attempted for any straightforward or honest purpose. Every body knows that it is the character of a particular house, quite as much as the character of the tenant, which carries particular classes of individuals to it, and keeps other classes away. There are houses which no change of tenantry can render fit to be kept open—houses of which, if an angel were the owner as well as the sign, no very desirable reform could be expected. The writer of the letter before me, declares that many magistrates are actually only in the commission to support jobs of the description alluded to; and that they are known by the nicknames of “brewers’ hacks,” “justices of the pewter,” &c. These are certainly very strong charges; but I have no hesitation in saying that I entirely and implicitly believe them. In fact, the evidence of the state of the brewers’ trade proves what the state of the licensing system of necessity must be. About a dozen great brewers hold the monopoly, for the supply of beer, of all London. They make it of what quality they think fit, charge what price for it they like, and it is found impossible, in the state of the law, to stand in any competition against them. I repeat that the brewers of the metropolis defy competition, and are enabled to do so, and enabled by the law. It is an imposition to talk of the difficulty of meeting them as to capital: the capital has been found for competition with them, and the speculation has wholly failed. The Golden-lane brewery was started with every circumstance to ensure success: at its first opening, the prospect of opposition was so beneficial to the public, that the London brewers improved the quality of their beer on the instant, and lowered the price a penny a quart, making an abatement of more than a million of money on the quantity annually consumed. Now, what has been the fate of this establishment? It is fit that the House should hear. During eight years that the endeavors of the proprietors were continued, they found it impossible to obtain a single new license; while hundreds of new licenses were granted within the same period to houses in the possession of other brewers. This, Sir, is not all. In some cases licensed publicans had actually been threatened that they should be deprived of their licenses if they had any thing to do with the Golden-lane brewery. At length the establishment was borne down, and the monopoly of the porter brewers completely triumphed. It is not in London alone that this state of things exists. The system in the country is the same; every where the trade is in the hands of a few; and the power of the licensers keeps those few beyond the possibility of being interfered with. I have no difficulty in saying, that I could name cases in which licenses have been refused from party motives. I could equally point out instances in which licenses have been granted from a similar

feeling. I speak here with confidence ; because, in the course of one or two Bills which I have brought into the House on the subject of the sale of beer, I received numerous communications, supported by affidavit, from licensed victuallers, who believed that a statement of their grievances might assist a general reformation of the system. I have known instances where licenses have been taken away purely from motives of personal dislike. I know one instance where a license was taken away from a house, because a magistrate, travelling in a cold night, had been kept waiting for some time at the door of it. In the case to which I now particularly allude, I was applied to on the subject of obtaining redress : but the justice had kept his counsel ; he had uttered no threat, nor expressed any personal displeasure : he had refused the license without stating any reason ; and I was compelled to admit that there was no utility in endeavoring to proceed against him.

Unfortunately, too, the blame is not confined to the licensing system alone ; the same fault, and the same spirit, runs pretty nearly through all the business that country magistrates do. I believe that there is not a more monstrous tribunal in any country in the world, or more monstrous injustice perpetrated under any authority, than in the convictions before sporting magistrates, for offences, or alleged offences, against the game laws. I do not mean to say that such magistrates are corrupt ; but they are violent, which, as far as the offender is concerned, amounts to the same thing. They have a sort of undefined notion of something peculiarly sacred and exclusive in the property of game ; and a kind of instinctive indignation against that *caput lupinum fere naturæ*, or poacher, which renders them most unfit and dangerous judges of the case of any man charged with that description of criminality ; and yet these men hold the power of imprisonment—of transportation,—of transportation for fourteen years, and, in some cases, for life. I do not wish to make any personal allusions ; but at some of those sentences I have often shuddered, when I saw the names of the parties on the bench when they were pronounced,—sentences passed by persons having no responsibility,—persons not educated in the legal professions,—persons not selected either as to their character or their acquirements for their fitness to discharge such perilous duties !

It is true that the country gets their services for nothing ; but even gold, it is our duty to recollect, may be bought too dear. It is, in fact, scarcely possible to conceive the existence of such a state of things, if it were not broadly and actually before us. The judges of the land are chosen with every caution ; and they cannot be chosen with too much caution for the delicate duties which they have to perform. They consist of men bred to the profession

at the head of which they acted, and responsible for every syllable that they pronounce. Here we have the same duties, the most nice and critical from among them, committed to the discretion of men who are, according to law, freed from all personal responsibility, and who have not even the common check on their conduct, that they are known, and that their names go forth to the world in conjunction with the judgments which they pronounce. Half the mischief of this system is, that the act done is not the act of a particular individual, but the act of the "quarter-sessions." It is said "the justices," or "the magistrates," have done this or that; not directly and nominally, "Mr. Such-an-one," or "Sir John Such-an-one;" and so two-thirds even of the moral responsibility is got rid of. While men are men, it is vain to expect otherwise, —where there is no responsibility, there will be injustice. There is no appeal from the jurisdiction of these magistrates in criminal cases. In civil questions there is no resource, unless where they themselves think fit to send a case to the Court of King's Bench. Surely, then, it is imperative, if the system must go on at all, to endeavor to amend it,—to introduce some provision under which magistrates may be more cautiously selected, and, in case of need, more easily removed. Taking all that has been stated to be true, I by no means agree that it is impossible to pay sufficient deference to the county magistracy, because we have their services for nothing. For my part, I take dear justice to be a cheaper thing than cheap injustice. The question of payment, in my view of the subject, is nothing to the country. But, in truth, the magistrates are already paid in money, or in money's worth. They are paid, besides the honor attaching to their office, in fees to their clerks, and jobs which they can give to their dependants. This last system of provision is sometimes pushed really to a ludicrous extent; and I would just shortly state a recent transaction to the House, with which I have been furnished by a gentleman on whom I entirely depend. A clerical magistrate, in a county which I will not name, had a clerk to whom he wished to give rather more emolument than his ordinary fees, and accordingly proposed him at the quarter-sessions for the office of surveyor of weights and measures, at a salary of a guinea and a half a week. This having been assented to, the new surveyor, who found it inconvenient to do his business himself, immediately appointed a deputy at five shillings and sixpence a week. The party from whom I received my information objected to this last proceeding, that one dignitary was sufficient; and that if the deputy was to do the duty, he ought to take the office in his own right, and receive the salary. But the Court, with one voice, overruled the opposition, and not only confirmed the new surveyor of weights and measures in his

place, but absolutely swore in the deputy, under the title of his "assistant."

Apart, however, from these more eccentric proceedings, the mere amount of fees on commitments brings in a considerable sum of money to magistrates' clerks. Connected with which fact, I am compelled to observe, that the late Bill for increasing the facility of allowing expenses to witnesses, and other persons engaged on trials, has done considerable mischief. It is possible that advantages were aimed at, and up to a certain point obtained, by the passing of this Bill; but I doubt that it has multiplied, very considerably, the number of commitments. Certainly it has had this effect—that a great number of boys who ought to have been ordered to be whipped, and sent about their business, have been committed to prison for trial. And, in whatever state of morals such boys go into jail, it is well known that they are sure to be confirmed thieves when they come out of it. I am afraid that the facilities of the Bill have been very eagerly jumped at by two classes of magistrates—those who are desirous of a little pecuniary jobbing, and those who wish to be noted for their activity. The anxiety of gentlemen for this last species of reputation has its dangers as well as its advantages, to the service of the public. It is a common thing in many places in the country to hear of some gentleman as "a very active magistrate"—"a man who commits more prisoners than all the other magistrates in the county." Such a justice is very likely to find this act serviceable in his honorable but ambitious career; and to feel a satisfaction in being able, without inconvenience, to have his labors make a conspicuous figure in the calendar of the assize, and in the discussions of the grand jury. Other persons may be more for a job than for glory—looking to the fees rather than the honor; but each disposition may see the convenience of sending as many people to prison as possible. I recollect a case in a town in the North, which was inhabited (as far as the lower orders were concerned) by numerous parties of Scotch and Irish. These excellent persons regularly fought, in large companies, in the streets, on every market-day, and fought double tides on fair-days. The custom of the justices was, on these occasions, to take up their position formally for the afternoon, with a competent supply of warrants; and as the rioters were brought before them, each swearing an assault against his opponent, their worships regularly avoided the necessity of balancing the niceties of evidence, by committing both the parties at the same time.

Now some of these details may be ludicrous; but the general question is a most serious and a most important one, because these facts show the manner in which justice is administered to the

people out of the immediate view and control of the courts of law. It is through the magistracy, more than through any other agency, except that of the tax-gatherer, that the people are brought directly into contact with the government of the country; and this is the exhibition of justice and consideration with which, when they approach it, they are treated. These magistrates, with no one circumstance to fit them for the discharge of legal duties, incur no responsibility, and are subject to no restriction. The judges of the land, chosen with the labors of a life previously devoted to the acquirement of competency, are responsible for every word and act, and subject to every species of restriction. They are selected with the most anxious caution for every circumstance of high character and of profound knowledge; and yet they are incapable of pronouncing a single decision from which an appeal does not lie to some other tribunal immediately about them; while the county magistrates, taken from the community at hazard, subject to no responsibility, unless for conduct which it is next to impossible to prove, and incapable of being removed from their places, unless by a verdict establishing direct criminality against them—from the decisions of these persons there is no appeal, unless for some informality in the letter of their proceedings, or on a case submitted by their own will, and with their own especial permission (for the thing can be accomplished under no other circumstances) to the Court of King's Bench. These are the circumstances to which, in the first division of my subject, I have desired to call the attention of the House. I have been anxious to accomplish my object more shortly, but have found it impossible to do so; and I must trust to the candor of the honorable members, in considering the importance of my statements, to pardon their prolixity.

I now propose to address myself to that portion of the subject which involves the discussion of the administration of justice in those courts of law in which I have been accustomed to practise. And although I regret having been compelled to trespass so long on the time of the House, yet I cannot, even now, promise a very early conclusion. And, first of all, addressing myself to the state of the common law, I would appeal to men of every profession, whether it would not be convenient, that whatever the law might be on any particular subject, it should be the same in all parts of the kingdom? Is it likely to be useful, or can it be necessary, that, by crossing a river, we should get to a place where the whole of a man's children equally inherit his estate?—that, by going down a few miles to Brentford, we should reach a locality in which specific provision is made in favor of the youngest branch of a family? and that, by turning as many miles in

another direction, we should be in a country where the inheritance of real property belongs peculiarly to the eldest descendant? Is it fit that such a multitude of customs, so various and contradictory, most of them the remnants of a barbarous age, should be allowed to remain in a country subject to the same general government? To go through the many absurd instances of particular customs which might be cited, would be a greater trespass on the patience of the House than I am disposed to make, but some of them I will mention. In one manor, the property of the copyholder is allowed to pass by will; in another, that mode of conveyance is not admitted. I admit that an improvement in the law respecting copyholds has been introduced by an hon. friend—the greatest improvement, perhaps, which has been made within the last two years,—but still there remain many absurd customs which are locally binding, but which ought to be abolished altogether. In some manors, the validity of wills bequeathing copyhold property is not admitted, if they have been made more than two or three years before the death of the testator; so that it is necessary for a party to renew his will every two or three years. Again, in some manors, the eldest daughter succeeds to the property in the same way as the eldest princess, in default of heirs male, succeeds to the crown of England; in others, the succession is by all the daughters equally. In one manor, the widow has her dower of one-third of the property; in others, she comes in for her *free bench*, and takes one-half; and, in some, she comes in to the prejudice of the male heir. In some there are fines or heriots; but, in all, the customs affecting the descent and transmission of property are as various as the *droit de coutume* in France, where, in almost every one of three hundred villages, the customs vary. Is it right, that such customs should be allowed to continue, or that they should be allowed to stand, in opposition to the general principles of the common law, affecting all other parts of the country? Is it right, that in London one law should be allowed to prevail for recovery of property, or for attachment of property, in the hands of third parties, different from that which is in force in all other parts of the kingdom? These various, inconsistent, and not seldom contradictory customs, with which very few could be acquainted, are so many traps for the unwary: they are a hindrance to the conveyance of property; often a material check to commerce, and an impediment to the free circulation of money. It is almost impossible for a man possessed of copyhold property to borrow money on it. As the law now stands, very few, if any, could be found to lend their money, on the security of such property. Copyhold property is not liable, after the death of the owner, even for his bond debts. Freehold property is, absurdly-

enough, exempted from the payment of simple contract debts after the death of the owner; but copyhold is not liable for debts of any description, bond or simple contract: so that, in the hands of a man who wants to raise money, it is, however valuable in other respects, absolutely worthless. Is it, I would ask, too much to expect, that after a lapse of so many years, during which those absurd customs have been allowed to prevail, some remedy should at length be applied?

Having thus pointed out the absurdity of many local customs, I will now show that the law is not in its administration always the same to persons. I will show that it is not true, as asserted by some of our writers on the laws of the country, that the Crown and the subject come into Court on equal terms. The law says they are equal; but I will show that they are not, but that in a variety of important cases the subject comes into Court under serious disadvantages. Blackstone says that the king can no more seize the estate of a subject than the subject can that of the king; or, if the authority of the king be used in taking the property of a subject, the subject has his remedy by writ or petition of right, or by *monstrans de droit*; "for," says Blackstone, "the decent presumption of law is, that as the Crown can do no wrong, it would, on hearing the case stated fully, give its decision according to justice." I wish the learned commentator had not left it to be shown that all this alleged equality is a mere matter of fiction. Now what I will show is, that all this alleged equality, and the protection supposed to be derived from the petition of right, exists only in the books in which they are mentioned, but undoubtedly not in the practice of the courts of law: for this very writ, or petition of right, cannot be used by the subject without the *fiat* of the Crown; and unless this were granted, all the other steps taken by the party aggrieved would be only so much labor lost. The granting or withholding of the *fiat* is in the breast of the Attorney-General; and if he should refuse it, the party has no remedy but to impeach the Attorney-General, and take all the chances of that very uncertain experiment. It might be said, that this was a matter which seldom happened; but why should it be left to the breast of any individual to refuse a writ of this kind? The power he exercises should in this case be merely ministerial, and the obtaining the *fiat* for the writ should be as much a matter of right as the obtaining any of the other processes sued out of our law courts. I will mention one case in illustration of my argument. A gentleman of my acquaintance obtained from the Crown the grant of an estate on the failure of heirs, but soon after the grant a claim was made on the part of another, who alleged that he was the rightful heir of the original grantee. A case was laid before me

and a learned friend in the Court of Chancery, and we were instructed to draw up a plea, and to apply for a writ of right. Application was accordingly made to the Attorney-General for his *fiat* in the usual way, but he refused it, and told the party that, as a sufficient number of years had not elapsed, he must proceed by ejectment. It was answered, that the claimant had chosen to proceed by the higher mode, and that the *fiat* ought to be given as a matter of course; but the answer was still the same, and the claimant was left to seek his remedy by ejectment. The consequence was, the suit of the claimant was not prosecuted, and I must say that the refusal was a great hardship to my client. I can state conscientiously, that the case of the claimant was as good a one as I ever saw. It was one of pedigree, and, in my opinion, the proofs offered were very strong. I do not mean to say that it was one which could not be answered; but such as it was—and this was the hardship I complain of—the claimant was not allowed an opportunity of trying it. After this, will it be contended, that the Crown and the subject come into Court on equal terms, or can it be doubted that there is anything but a mockery in the assertion of Blackstone on this subject?

There is another case, in which the Crown does not even pretend to be impartial, and I will mention a few of its effects. In the first place, a person who demurs to the law is obliged to admit the facts alleged against him, and cannot go back from that admission. With respect to the Crown, no restrictions of a similar kind are imposed; and I understand that, in the Court of Exchequer, a suitor cannot except to the answer of the Attorney-General to a bill, on the ground of its being insufficient, but any subject is liable to have such an exception taken to his answer. A case which I argued in the Court of King's Bench, and in which I was defeated, is another instance of the inequality of the situation of a subject with respect to the Crown in a court of justice. In that it appeared that, no matter where a cause of action arises, whether in Middlesex, or in York, or in Cornwall (as was the fact in the cause in question), the Attorney-General, on the part of the Crown, has the right to remove the case at once into the Court of King's Bench, and have it tried at bar before the four judges. Let the House consider what must be the inconvenience to parties to bring witnesses such a distance—the loss in point of expense. This loss might, no doubt, be considered by the Crown, and some allowance made for it afterwards; but is it no inconvenience to have the cause removed from a place where the party is well known, and where his witnesses are known, to one in which he and they are strangers? This inconvenience cannot accrue to the Crown; for the Crown is just as well known in London as in Cornwall, and

not less likely to be served in the former place than the latter. Another instance of the inequality between the Crown and a subject at issue in a court of law is, that a subject must not withdraw the record where the Crown is a party, but the Crown can, at any stage of the proceedings, before the verdict is given. An instance of this occurred within my own knowledge, in the Court of Exchequer, where the Attorney-General allowed a case to go to the jury, and, while they were deliberating on their verdict in the jury-box, having some misgivings as to the probable nature of the verdict, he withdrew the record, and thus removed the case at once from the jurisdiction of the Court. Another circumstance may be mentioned in support of my argument: it is, that the Crown considers itself above receiving costs, and therefore also above paying them, when verdicts are against it. The reason of the principle may be very easily traced. It was established at a time when the Crown was very differently circumstanced with respect to the people, from what it is at present. It was at that period dependent chiefly on its own private revenues, wholly under its own control; and its interest in pecuniary matters might be said to be distinct from those of the people. Under those circumstances, it might be said, that it would be above receiving costs in an action with a subject; but why this should exempt it from the payment of costs when the verdict went against it, I am at a loss to discover, for the things are as different as possible. In special jury cases, the parties opposed to the Crown cannot pray a *tales* without the warrant of the Attorney-General acting for the Crown.

Thus the power of denying a trial is vested in the very party whose interest it may be that no such trial should take place, and who very probably may be disposed to withhold the permission in proportion as the opposing party is anxious to obtain it. I will mention an instance of this which occurred in my own practice. An action was brought against an individual in the Court of Exchequer: I was engaged for the defendant, and in the course of my cross-examination of the principal witness for the prosecution, I elicited from him sufficient to throw a suspicion of perjury. The jury, however, thought that some credit was due to his evidence, enough at least to incline the balance in favor of the Crown, and they accordingly found a verdict against the defendant. In the next case, the same witness was also the person on whose testimony the case of the Crown rested; but my learned friend, Mr. Sergeant Jones, to whose great talent, learning, and experience, I cannot pay too high a tribute, put him to the test of a severe cross-examination, in which he broke down. The superior skill of my learned friend, aided perhaps a little by his experience of the pre-

ceding case, succeeded with the jury, and the suspicions of perjury excited in the former case were now turned into reality. A verdict was given for the defendant. In consequence of this verdict, a prosecution was instituted against the witness (Mead) for perjury; and, altogether, eighteen indictments arose out of that proceeding against Mead and others. The bills were all found, but the whole of the cases were removed at once by *certiorari* into the Court of King's Bench, and all of them made special jury cases—for the Crown has that power without the concurrence of the prosecutor. One of them was tried; and the witness Mead, now the defendant, having been a witness for the Crown, was now, as is usual on such occasions, defended by the Crown. He was, however, found guilty. The prosecutor was about to proceed with the other cases, but a sufficient number of special jurymen not answering to their names, it became necessary for the prosecutor to pay a *tales*. This, however, could not be done without the warrant of the Attorney-General, and that was at once refused. The consequence was, that after an expenditure of 10,000*l.*—after bringing 100 witnesses up from York—after all the labor, expense, and anxiety of the prosecutor (the former defendant in the Exchequer),—he was deprived of the means of bringing the parties whom he accused to justice, and at the same time was ruined in the attempt. The seventeen indictments against the other parties of course fell to the ground.

The unfortunate farmer (Lowe), on whom such ruin was brought in his attempt to obtain justice, was fated to lose his life in this unfortunate cause. The defendant Mead had obtained a rule for a new trial; and while the proceedings were pending, a fracas took place between him and Lowe (for the parties lived in the same town). Offence was taken at a song sung in allusion to the trial, and the result was that Mead shot at his opponent, and killed him on the spot. He was tried for the murder, and found guilty of manslaughter only, it being considered that Mead got some provocation; but to show that the judge viewed the case as one of much guilt, I may mention that Mead was sentenced to two years' imprisonment. This, Sir, it will be admitted, is a bad case, and one of much hardship; and I am justified in saying that the whole arose from the refusal of the warrant of the Crown for a *tales*. Shall I be told, after this, that the Crown and the subject are on equal footing when opposed in courts of justice? While other countries, which say much less in their own praise than we are in the habit of doing, but do much more to deserve it, are taking steps to remove such inconsistencies and absurdities from their systems of jurisprudence, are we to stand still and allow them to remain, and attempt no means to remedy the evils they

occasion? The case I have mentioned, though a bad one, is one which, bating the murder, might happen every day; but even happening only once, is it not enough to prove the assertion I have made, that the Crown and the subject are not on the same footing in our courts? In no case, I repeat, has the latter the same advantages as the former.

Having thus cleared the way, I will now point out briefly the means which might be adopted for preventing unnecessary suits, and for limiting the duration and expense of those which are necessary. In the other parts of my remarks, I will advert rather to the general heads than go on to the more minute details. In the first place, I would remove all kinds of oppression by means of suits at law, by cheapening all legal proceedings; and I would render them much less harassing and vexatious, by promoting, as much as possible, expedition in the progress of a suit. My next principle is, that no proceeding should be allowed which went only to the profit of the Court or the practitioners, and which might be done as matters of course; but all should be supposed to be done by the party himself, which could be done at present by application to the Court. In the third place, I would not send a party to two courts, where one would be sufficient, or oblige them to go to a bad and dear court, where application might be made to a cheap and expeditious one. Fourthly, I would not place the *onus* of proof on the party who has a fair presumption of right; but, as in case of bills of exchange, mortgages, and things of that sort, where, as in the Scotch law, the plaintiff is presumed to be so much in the right as to get all he asks, unless the defendant is enabled to show cause to the contrary. In the fifth place, I would allow parties having prospective interests to defend, to institute (as is permitted in the law of Scotland) declaratory suits, by which they might compel parties who have, or conceived they have, claims, to urge them or be barred in future. This would be found a most useful practice, and the party by whom the suit is instituted, might pay the whole or part of the costs, as the Court should determine. In the sixth place, I would abolish all obsolete proceedings in law. These are, for the most part, a trap to the unwary, and afford a ready means by which the incautious may be made tools in the hands of the designing and dishonest. Of these obsolete proceedings, I will instance the absurd one of wager of law. This kind of defence may be set up in cases of *detenue*, or of simple contract debt. In that case, all the defendant has to do is, to come into the Court and swear that he does not owe the money, and bring along with him eleven persons who will swear that they believe him in what he swears. They may be eleven strangers to the party claiming the debt, and

therefore less likely to know anything about the matter, and could safely swear as to their belief of defendant. A case of this kind was some time ago brought into the Common Pleas, when some of the oldest practitioners were at a loss how to treat such a defence; and were about to demur to it, so little are they practically acquainted with that which is still a legal defence to an action for debt.

Now, this I would abolish together. I would also, without the least feeling of remorse—without thinking for a moment about the pain it might give to several of my learned friends—without caring a rush for the immense mass of antiquated learning which it would render useless, or shedding a single tear over the piles of musty records which it would sweep away,—without being moved by any of these considerations, I would at once and for ever abolish the obsolete, absurd, and most ridiculous system of fine and recovery. If ever there was any one practice in our civil code more absurd than another, it was this. I beg to be understood that I do not mean to do away with cutting off the entail; but I would far remove the absurd, extravagant; and, what is not less objectionable to the party in the case, most expensive legal mummery by which that step is accomplished in one of our courts of law. If a man has an estate in fee, he may sell it, or will it, or convey it by deed of gift, to whom he pleases; but, with an estate in tail, which he means to dispose of, he must go to the Court of Common Pleas; and there, by paying a variety of heavy fines to the Court and the officers, he may do all he requires, and effectually bar the rights of all parties in remainder. But why may he not be allowed to accomplish his object, if a fair one, without going through all that ridiculous ceremony, and paying those heavy fines? In bankruptcy, all those forms are dispensed with, and the entail is cut off, and the estate sold for the benefit of creditors. Why should not this be done for the honest landowner, of which a dishonest tradesman is allowed to avail himself.

I would also abolish the absurd forms through which a woman is obliged to go in suffering a recovery with her husband, or in barring her dower, and the still more absurd practice of making the crier of the Court, as the vouchee in cases of fine and recoveries, the only party from whom, by a fiction of law, the parties barred can claim compensation. In the case of the lady I would appoint a legal or equitable guardian, to see that she is not induced to act in her own wrong. I would do away with contingent remainders, in the form in which they are now set out. I would allow a man to say he leaves his estate to his son, and after him to his son's son; but this should be in simple terms, which would

not serve, as is the case of the present form, to puzzle and confuse the unwary, and often to cause them to defeat the very ends they have in view. I would propose, as another improvement, to take away from the Court of Chancery its jurisdiction in trusts, mortgages, &c., by extending the statute of uses. In dealing with this class of cases, the court of equity decides purely on the principles of common law. The court of equity, however, is not so well able to decide these cases as a court of common law; and the consequence is, that every term two or three cases are sent from the former to the latter for its opinion on the law. It is said that a court of common law has not the means of dealing with these cases, because they resolve themselves into matters of account. But the Court of Chancery, in itself, has no peculiar property of unravelling questions of account. This duty is performed by its appendage, the Master's office. If the number of Masters were increased in the Court of King's Bench, and if arbitrators were appointed before whom the parties should come in the first instance without counsel or attorneys, to have the subject talked over, to be shown the strength and weakness of their several cases, that Court would be quite as competent to decide questions of account as the Court of Chancery. The equitable jurisdiction of the Court of Chancery would thus be ousted in nine cases out of ten over which it has gradually extended itself, owing to the defects of the courts of common law. The Court of Chancery would then be left to its original jurisdiction in cases of pure account, idiots, infants, and long trusts, which no court of common law can deal with. It is hard that an individual should be driven to two actions, ejectment and mesne process.

My next object is to diminish the number of suits,—to allow only those to be brought which ought to be brought, and to provide that those shall be terminated in the shortest possible space of time, and with the least possible expense. For this purpose, parties should have an opportunity of stating their case before arbitrators appointed by the Court. Much good would result from this practice, and it would always tend to keep open the door of reconciliation. Our Saviour has wisely observed—“Agree with thine adversary whilst yet thou art in the way.” That recommendation should be constantly set before the eyes of suitors. It is, in original intention, though not in effect, acted on in the practice of imparlance. Whatever tends to bring a party to his senses as soon as possible, ought to be resorted to at once. Above all things, it is of the greatest importance that a party should at the earliest moment be brought to the knowledge of his adversary's case. If parties are disposed to be litigious, the interests of both differ from the interests of justice. It usually

is the practice for practitioners to determine on the prosecution or defence of a suit, and they did not always value the interests of their client so much as their own.

The object of a judge in a court of law ought to be to make each party come out with the whole of his case as soon as possible. In Scotland, no man can produce a written instrument in a court of law, unless he has some time before shown it to his adversary. In England the practice is different, and much vexation and injustice is the consequence. As a means of facilitating compromises, I would propose that parties be allowed to pay money into court in cases of unliquidated damages, and likewise to make a tender in cases of injury to persons and property, as is done in the case of justices and others under the statute of George II. With the view of shortening the duration and abridging the expense of suits, and doing justice at the same time, why should we not adopt some of the useful rules of foreign nations, which accord with the spirit of the English law, and would prove so beneficial to all, except the profession to which I have the honor to belong? In this matter I speak disinterestedly. There are very few persons who make more money by the law than I do. Few persons share more largely in the benefits which result from its abuses. If the reforms which I propose were introduced, a whole class of cases would be banished from the Courts, which only benefit counsel, attorneys, and the officers of the Court, and work the ruin of the plaintiff and defendant. I would ask any man acquainted with law, whether half the number of cases at present standing on the paper of the King's Bench would appear there if the parties had the opportunity of going before a sensible arbitrator, as is done in France, in the Dutch maritime courts, and in the Danish courts. The average amount of the money in dispute in the causes in the Bench paper is 80*l.*, and the average expense of each cause is 100*l.* It came to my knowledge, that the average amount of money in dispute in fifty actions tried at the last Lancaster assizes was 50*l.* This never could have happened, if the parties had been afforded an opportunity of having some quiet conversation with each other.

The existence of such facts as these proves the necessity of appointing public arbitrators, before whom men may go before their passions are worked up, and their pockets worked low. I now come to consider the commencement of the suit, with respect to which I have three propositions to offer: first, to prevent the debtor from wilfully absenting himself, and thereby causing delay; secondly, to give the debtor notice of the cause, that he may be able to defend himself if in the right, and to yield if in the wrong; thirdly, to give him no unnecessary inconveniences,

still he be actually found indebted, consistently with due security, to the creditor. At present it is the custom, first to presume the debtor to be in the wrong, then to arrest him and to throw him into jail. I am given to understand that the creditor's power is often abused for electioneering purposes. A candidate is sometimes arrested for a debt which he has contracted within a few days, and his ability to pay which no man can doubt. It is sometimes difficult or inconvenient to procure bail. I have heard that when a gentleman is arrested at the west end of the town, he sometimes sends for his butcher or baker to bail him; and although this practice may have its conveniences, it is not quite the right thing. The gentleman cannot afterwards, with a very good grace, abuse the butcher's bad meat, or complain of the baker's bread. The system, however, operates more grievously on the small tradesman: he has not the same facilities of procuring bail as persons in a higher rank; and if imprisoned, as is most likely to be the case, he sometimes never holds up his head again, or is not like the same man as before. Why should a man be arrested on mesne process at all? Is it likely that because a 50*l.* debt is sworn against a man, that it will be sufficient to induce him to leave his house and home, his wife, his children, and even his country? Some men might act thus, but their conduct would form the exception, and not the rule. If the law on this subject were reformed, tradesmen would be less ready to give to suspected, needy, and extravagant men credit, for which those who pay honestly are generally proportionably taxed. Why should not the writ be left at a man's house, and require him to find security only when it shall appear that he is about to fly. This is the practice in Scotland, where people have the reputation of being sufficiently wary.

I now come to that point of the law which supposes the parties to be in court, and calls on them to state the claim on one side and the defence on the other. This is a part of my subject which I approach with great distrust in the presence of my learned instructor (the Solicitor-General), by whose knowledge and experience I have greatly benefited. Lord Coke was of opinion, that there was something extremely delightful in the practice; for, speaking of the word *placita*, he says it is derived from *placendo*, *quia bene placitare super omnia placet*. Lord Mansfield was also an admirer of pleading, but his praise was somewhat more moderate. "The rules of pleading," said he, "are founded on good sense." So, indeed, they were originally, but subtlety has put aside good sense, and the legislature, by allowing the general issue to be pleaded, has assisted in lowering the character of pleading. In my opinion, every departure from the original strictness of pleading is not only injurious to the pleaders them-

selves, but also to society. My great object is, that the parties should declare their claim and defence as early as possible, and that, in so doing, all repetition and unnecessary statement should be avoided. These were the principles on which the ancient pleaders bottomed themselves; but the last century and a half has made great havoc on them.

The first count in the declaration ought to convey precise knowledge of what the action is about; but according to the present practice that may not be done. In an action of account, the declaration merely states, that the action is brought to recover money had and received for the use of the plaintiff. This same declaration may be employed in seven actions, each of a different nature;—first, where money has been paid by one person to another, for the use of the plaintiff; secondly, where money has been received on a valuable consideration or a contract not executed (this would include all cases of contract); thirdly, money paid in mistake and retained; fourthly, money paid by one person to a stakeholder in consideration of an illegal contract; fifthly, money paid to a revenue officer for releasing goods; sixthly, on fees of office (the assize of office being now obsolete); lastly, to try a landlord's liability. Again, in cases of trover, the same form of declaration serves for seven cases, as various in their natures as can well be imagined. The declaration states that the plaintiff was possessed of a gun, which he has accidentally lost, and which has come into the hands of the defendant, who has converted it to his own use. The same declaration serves for the following cases:—first, a gun lost by one person, found by another and converted to his own use; secondly, that the gun has been taken by the defendant, under pretence of some title, but not feloniously; thirdly, a gun deposited and refused to be restored; fourthly, a gun stopped *in transitu* on account of bankruptcy; fifthly, an action brought by the assignees to recover it; sixthly, an action against the assignees to try the bankruptcy; seventhly, an action against the sheriff to try the validity of an execution. In actions of trespass of every kind, the language of the declaration is the same. I will not repeat the mode in which the various counts are framed, as my objection is not so much to the rigmarole which they contain, as to the circumstance that all declarations in actions of trespass, whether the trespass be committed in the taking of goods, or in the seduction of a man's wife, servant, or daughter, are drawn up in the same way as they are for trespass committed in the assault on a man's person. They tell the defendant nothing—they tell the counsel nothing—they tell the judge nothing. It may be said that the defendant must know the cause of action himself; but that does not always follow. There is, however, one person who

must know it, and that is the plaintiff. The plaintiff, I repeat, must know it, and ought, for the satisfaction of all parties, to state it distinctly.

The next point to which I wish to call the attention of the House is the declaration in the action of trespass *quare clausum fregit*. In such actions the description of the wrong done is more than ordinarily specific. The damages in the declaration are laid at 1s., as the object of the action generally is to try a right. In all other cases, where a knowledge of the wrong suffered is material, the court, the counsel, and the suitor, are left equally in the dark; but in the case to which I have just alluded, where a knowledge of the circumstances under which the trespass is committed is immaterial, every thing is told to them of which it is unimportant that they should be informed. The next stage to the declaration in every action is the plea; and here I must observe, that if the plaintiff tells the defendant nothing in his declaration, the defendant, in his turn, tells the plaintiff nothing in his plea. I maintain, however, that the plaintiff ought to be informed of the nature of the defence which the defendant intends to set up at the trial, if for no other reason, at least for the prevention of the frauds and perjuries which so often take place under the present system. Perjury is encouraged by the vagueness and indistinctness of modern pleading; and it is notorious to every gentleman who practises in Westminster Hall, that when parties fight on the record, they too often fight by perjury. In a general *indebitatus assumpsit*, which is in the nature of an action of debt, the general issue is *non assumpsit*. Now, under that plea, no less than eight different defences may be set up as a denial of the contract,—payment, usury, gaming, infancy, accord and satisfaction, release and coverture. All these pleas are stated in the self-same way. So, too, in an action of trover for a gun: the defendant, under the plea of “not guilty,” may set up as a defence that he is a gamekeeper, and has taken it by virtue of the qualification act, or that he has a lien on it for passage-money, and has therefore a right to detain it, or that he has received it as a deposit, and is entitled to keep it. All these defences have been absolutely made, and each of them has been concealed under the sweeping plea of “not guilty;” so that every body will, I think, agree with me, that if the count teaches the Court and counsel little, the plea teaches them still less. Mr. Justice Blackstone, with a full knowledge of the generality of all declarations, and of all pleas in *assumpsit*, in trespass, and in trover, concludes his account of special pleading and actions (not otherwise remarkable for its accuracy) with the following panegyric on that perfection which they share in his eyes with all the rest of our system! “This *care* and *circum-*

spection in the law,—in providing that no man's right shall be affected by any legal proceeding *without giving him previous notice*, and yet that the debtor shall not by receiving such notice take occasion to escape from justice; in requiring that *every complaint be accurately and precisely ascertained in writing*, and be *as pointedly and exactly answered*; in *clearly stating* the question either of law or of fact; in deliberately resolving the former, after full argumentative discussion, and indisputably fixing the latter by a diligent and impartial trial; in correcting such errors as may have arisen in either of these modes of decision, from accident, mistake, or surprise; and in finally enforcing the judgment, when nothing can be alleged to impeach it;—this *anxiety to maintain and restore* to every individual the enjoyment of his civil rights, without trenching on those of any other individual in the nation—this *parental solicitude* which *pervades* our *whole* legal constitution, is the genuine offspring of that spirit of equal liberty which is the singular felicity of Englishmen."

The inconsistency of our rules of pleading is the next head of complaint to which I shall allude, and which I conceive to be as manifest as their vagueness and indistinctness. Why should a man be allowed to plead infancy under the general issue? If it be right that the defendant may avail himself of such a plea, it is equally right that he should give the plaintiff notice that he intends to use it, in order that he may examine into its correctness previously to its trial. What is a plaintiff to understand when a defendant first pleads that he has never made a promise to pay, and then in the same breath states that he was an infant at the time he made it? Next comes the multiplicity of counts and pleas. A man lays his claim, which in itself, perhaps, is perfectly simple, in ten different ways—throwing, as it were, his drag-net on the waters, to catch every thing which may fall within its meshes. The pleas are in consequence framed to meet ten different counts; and hence arise a multitude of pleas equally inconsistent with the truth and with each other. Take, for instance, the case of a debt on bond. The first plea in such an action is the general issue, *non est factum*, whereby the defendant denies the bond being his deed; the second is, *solvit ad diem*—he paid it on the day mentioned in the bond; the third is, *solvit ante diem*—he paid it before the day; the fourth is, *solvit post diem*—he paid it after the day; and the fifth, performance and a general release. Now all these pleas are so clearly and undeniably inconsistent with each other, that it is quite unnecessary for me to say a word respecting them. What can a plaintiff expect, when a defendant first asserts that he never executed the bond on

which the action is brought, and then asserts, in the next moment, that he has not only executed it, but has moreover paid it off? Where pleas are consistent with each other, it might be well to let them be pleaded in full abundance; but where they are not only not consistent, but absolutely destructive of each other, it would be a good rule to establish that such pleas should not be put on the record. While on this part of my subject, I would again recur to certain matters which have come within the sphere of my own personal knowledge in the profession.

I recollect that at one assizes at York, it was my duty, as junior counsel, to open a declaration, in an action brought to enforce the payment of a wager laid on the life of Napoleon Buonaparte. I told the jury, that the defendant, in the year 1802, in consideration of one hundred guineas, had agreed to pay the plaintiff a guinea a-day during the life of one Napoleon Buonaparte. I then amused the Court and the audience by stating, that there was another count, in which the wager was averred to be laid on the life of a second Napoleon Buonaparte; and a third count, in which it was averred to be laid on the life of a third Napoleon Buonaparte. Now, by all this verbose tautology, there was nothing gained to the suitor, but there was much gained to the members of the profession, for it tended to make the suit more costly. Before the statute of the 4th and 5th of Anne, no man was allowed to plead double, except under a protestation; but by that statute it was enacted, that he might, with leave of the Court, plead two or more distinct matters or single pleas. I must now inform the House, that though that leave was formerly granted by the Court as matter of discretion, it is now generally given as a matter of course. There is, however, a fee to be paid to the Court for that leave, and a fee to be paid to counsel for signing the rule to obtain it. I believe that the judges are now fully aware of the folly of which their predecessors were guilty in establishing such a practice. The mischief of it is great and undeniable. I believe in my conscience, that many an attorney's clerk, who afterwards proceeds to still greater frauds, begins his career of crime by defrauding counsel out of the half-guinea fee, which should be paid them for their signature of such rules. It is not necessary that they should themselves sign their names, and I believe that a knowledge of this fact among attorneys' clerks and barristers' clerks seduces many of them to commence a course of petty embezzlement, which leads to larger peculations in the long run, and ends in sending them as convicts to seek their fortunes in another hemisphere.

There is another inconsistency in our system which I cannot allow to pass without notice. A defendant may plead; but a

plaintiff cannot reply many matters. For instance, in *indebitatus assumpsit*, if a defendant pleads, first, that he never made any promise, and next, that he was an infant when he made the promise, the plaintiff must either admit the infancy and set up a subsequent promise, or if not, deny the infancy altogether, and re-affirm the original promise; for he cannot both deny the infancy and set up a subsequent promise. Now I would ask the House, why, if the defendant is allowed to plead several matters, the plaintiff is not allowed to reply several matters? There must be some limit, I allow, set to the matters alleged in the replication; but surely there can be no harm in allowing the general issue to be met by as general a denial. The next stage in an action is the demurrer, which is an issue, not on a matter of fact, but on a matter of law. By demurring a party is obliged to confess the facts to be true as stated by the opposite party, but denies that by the law arising on those facts any injury has been done to the plaintiff. Nothing can be more absurd and foolish than the rule which calls on a party, if he denies the law as applicable to certain supposed facts, to admit those facts before his demurrer can be made ripe for decision. Why, every man is demurring every day of his life! Suppose that I am accused of having uttered a calumny against the reputation of another party on a given day, at a given place. Surely I may be allowed to say, "I never was at that place in my life, and therefore it is impossible that I should have uttered the calumny against you which you represent?" Why, then, may I not on a point of law be permitted to say, "Admit, for the sake of argument, that I was there, still I say that the consequences of which you complain did not follow?" I repeat, that a contrary rule is both impolitic and unwise. I admit that if any mischief is occasioned by the present practice, there is an opportunity of remedying it, after the matters are placed on the record, by alleging error in it. This observation leads me to remark that I would allow all formal errors to be amended even at the very last stage of the cause. No one should be turned round on a mere variance,—no one should be defeated on a mere verbal mistake, as it was my lot to be defeated in an indictment for perjury, in which I was recently engaged. It was a case in which the jury was empanelled, the witnesses examined, and much evidence received, before it was discovered that there was a variance between the affidavit on which the perjury was assigned, and the copy of it which formed part of the record, which was fatal to the indictment. In the affidavit the word grandmother was used: in the record the syllable "grand" was omitted, and only the two last syllables "mother" were inserted. Owing to that slight error, all the trouble of the Court, and all

the expense of the prosecutor, were rendered totally useless and unavailing. In 99 cases out of every 100—indeed I might say in 999 cases out of every 1000, in which parties are turned round on variances,—the variance is not greater than that which I have just mentioned to the House. The improvement which I would suggest, is to allow nobody to be turned round on a variance, except on the discretion of the judges. I would go further than this, and would say that nobody should be turned round for want of a proper stamp being affixed to any instrument which they may be compelled to produce in the course of a trial. Earl Dudley was recently nonsuited in an action, because it was stated that the instrument on which he rested his claim contained more words than the stamp affixed to it warranted. At the trial of the cause it was not disputed that the words were more in number than the stamp covered; but it was afterwards found out that the defendants had counted the words wrongly, and that they fell short of the number mentioned in the Stamp Act. I think that in such cases some protection ought to be afforded to plaintiffs; and I would therefore allow the judges to say to them, “You shall pay a 20*l.* penalty, and have your instrument stamped and made available in Court, instead of only paying a 10*l.* penalty, if you take it to the Stamp-office.”

Let not the House suppose that the grievances which I have just been describing as emanating from the present system, are imaginary and theoretical grievances. I can assure the House that they are not so; but they are in many cases actual grievances, amounting almost to a positive denial of justice. I hold in my hand a letter from an eminent practitioner in the law, in which the effect of them is feelingly and forcibly pointed out. The widow of a Welsh clergyman was obliged to bring an action on a mortgage-bond for the payment of the mortgage-money at a given day, and interest in the mean time, and for performance of the covenants of the mortgage-deed. She might have foreclosed by a proceeding in equity; but, instead of doing so, she brought an action of debt of the simplest possible kind, both in its nature and in the form of the proceedings; and the House shall now hear from the eminent practitioner himself, what was the progress and termination of that action:—“The defendant was a member of Parliament, and some delay, as is usual with such defendants, took place in enforcing an appearance. When the declaration was delivered, the defendant, of course, demanded oyer of the bond, and, that obtained, made as many applications as the judge would allow, for further time to plead. At the expiration of this period he pleaded—1st, *Non est factum*—2d, *Solvit ad diem*—3d, *Solvit ante diem*—4th, *Solvit post diem*—5th,

Performances. It is needless to add, all these pleas were pure legal fiction. The plaintiffs in their replication took issue on such pleas as concluded to the contrary, and assigned breaches of the condition, according to the statute. The breaches assigned were, non-payment of the principal—non-payment of the interest—and non-performance of the covenants of the mortgage-deed. The defendant, for the purpose of splitting the second into two issues, and thereby creating the delay of an issue in law to be tried before the Court *in banco*, and an issue in fact to be afterwards tried at *Nisi Prius* before a jury, demurred to the last assignment of breaches—a sham demurrer for delay. The plaintiffs joined in demurrer, and made up and delivered the paper-book and demurrer-book. The defendant, in order to entitle himself to bring a writ of error for delay, without giving bail, then suffered judgment to go by default, for not returning the paper and demurrer-book. The consequence of this was, that all the pleas, replications, rejoinders, and demurrers, became useless, and were struck out of the record; and the plaintiffs had to execute a writ of inquiry before the chief justice, according to the statute of William III., to assess damages on the breaches suggested. But these proceedings had answered the purpose of harassing the poor plaintiff with useless and expensive litigation, swelling the pleadings from five folios to 118; and they had already accomplished much delay, having occupied four terms: the bill was filed in Trinity Term, the pleas and replication in Michaelmas Term, the demurrer and joinder in Hilary Term, and the final judgment was obtained in Easter Term. The defendant then brought a writ of error, without the slightest pretence of actual error; and that proceeding, of course, delayed the plaintiffs four terms longer. All this was necessarily attended with expense, which might have been grievous to a poor person, as the party in this case was. The costs of the judgment were taxed at 80*l.* 4*s.*, and the costs in error at 19*l.* 10*s.*, making together 99*l.* 14*s.* for the costs, and two years for the active prosecution of an *undefended action*, in which the length of the declaration was five folios! Comment on such a case would be a waste of words.”—“So tender and circumspect,” says Blackstone, “is the law of England in providing that no man’s right shall be affected by any legal proceeding without giving him previous notice, and yet that the debtor shall not by receiving such notice take occasion to escape from justice; in requiring that every complaint be accurately and precisely ascertained in writing, and be as pointedly and exactly answered: in clearly stating the question either of law or of fact; in deliberately resolving the former after full argumentative discussion, and indisputably fixing the latter by a diligent and impartial

trial; in correcting such errors as may have arisen in either of these modes of decision, from accident, mistake, or surprise; and in finally enforcing the judgment, when nothing can be alleged to impeach it. So anxious is it to maintain and restore to every individual the enjoyments of his civil rights, without intrenching on those of any other individual in the nation—so parentally solicitous is our whole legal constitution to preserve that spirit of equal liberty, which is the singular felicity of the British nation!”

I must now tell the House, that besides the 99*l.* 14*s.* already mentioned, this poor Welsh widow had to pay 30*l.* for extra costs—costs for which she never received a farthing from the defendant, and which she had to defray after he had handed his share of the costs over to the plaintiff's attorney. She was, I repeat, 30*l.* out of pocket in prosecuting an undefended action; and if it had so chanced that the defendant, instead of being a distressed and feeling man,—for I happen to be well acquainted with the member of Parliament in question, and know that though a distressed man, he is still a most feeling and conscientious man,—if it had chanced that he had been such a character as was known to have existed in this country, and as had often been represented on the scene,—namely, a pertinacious and oppressive man, with a long purse to back him, he would have defended himself at every stage of the action by counsel; he would have gone before the judges, and had the demurrer argued; he would have had it tried at *Nisi Prius*; he would have brought a writ of error; he would have carried it through the Exchequer Chamber into the House of Lords;—and the costs in that case, instead of amounting to 30*l.*, would have amounted to—I dare not say what sum, knowing that costs to the amount of hundreds have been incurred to recover a debt of only 20*l.* “So tender was the law of England in providing that no man's right should be affected by any legal proceeding—so parental its solicitude to maintain and restore to every individual the enjoyment of his civil rights, without intrenching on those of any other person whatsoever!”

There is a case in the first volume of Mr. Justice Blackstone's Reports, which I wonder the learned author had not recollected before he wrote this extraordinary panegyric on the laws of his country. A gentleman of the name of Robinson in Yorkshire—I trust he was no relation to the illustrious nobleman who lately filled so distinguished a situation in His Majesty's counsels—was minded to try the resources of the law. To a declaration that had five counts, he put in twenty-seven special pleas; and in the course of the action the pleadings amounted to near 2000 sheets, which rendered the Court very indignant. Mr. Justice Blackstone says, that he appeared in person for himself, no one else daring to appear for him. He said that the question was an important question of

right, and that he felt himself called on to avail himself of every aid that he could in shaping his defence of it. The Court, on hearing him, ordered the issue to be drawn up by three barristers, who settled it in a quarter of an hour, and in the small space of a quarter of a sheet of paper. Talk of scourging with a rod of iron! Why, the lash of parchment which is applied to all suitors in our courts of law—that flapper which keeps them awake by the sufferings it inflicts—that goad which drives them on from one stage of misery to another, till it makes them plunge into complete and undeniable ruin,—that is a more effectual rod for scourging a nation than any rod of iron which even the ingenuity of a Phalaris could invent.

I next come, in the consideration of this subject, to say a few words on juries—a point on which I feel it the more incumbent to touch, because juries have of late been attacked by the reformers of the law. I hold them to be a wise and politic, and almost perfect institution; and I say this the more willingly, because I have been represented, very erroneously, to entertain doubts respecting its excellency. I speak as a practical professor of the law, when I say that there is no other mode of trial so admirably adapted to prevent wrong, to secure right, and to eviscerate the truth, as the trial by jury. In the first place, it controls the judge, who might, not only in political cases, have a prejudice against the defendant, but might also, in private cases, have, what is equally detrimental, a prejudice against a particular counsel. In the second place, it supplies that want of knowledge of the world which judges seldom possess, and which, from their habits and station in society, it is not decent that they should possess. In the third place, who can so well weigh the value of conflicting evidence as twelve men indifferently chosen, of various habits, characters, and prejudices? Who, moreover, can so well assess the amount of damages which a plaintiff ought to recover for any injury he has received? How can a judge decide half so well as an intelligent jury, whether a plaintiff should, for an assault, recover 50*l.* or 100*l.* damages? or, for a criminal seduction, 1500*l.* or 2000*l.* damages? The system looks well in theory, and works well in practice; it wants only one thing to render it perfect, namely, that it should be applied to those cases from which the practice in equity has excluded it; and that improvement would be best effected by drawing back to it that jurisdiction which the Court of Equity has taken from it.

This consideration brings me to the next point which I intend to press on the notice of the House—I mean the admission of evidence. I must say, that it appears to me to be an error to exclude, so rigidly as we do, the testimony of the parties in an action. It is received in all questions of arbitration; why should it be refused in open court? I do not fear that perjury would become more frequent by the alteration which I propose, though I am rather

afraid that it would produce an eagerness which would make men swear, as it is technically called, near to the wind. Here again I speak from my own experience. I recollect a case in which a gentleman of large fortune appeared before an arbitrator on some dispute arising out of an electioneering contest. It was my lot to examine him. I had got a great number of his letters in my hand. He was very eager to be heard in his own cause. He had quarrelled with his agent, and wished to explain the cause of the quarrel. I put a question to him: "Did you never on such an occasion say so and so?" His answer was distinct and ready—"Never." I repeated the question, and he repeated his answer. I then said to him, "Do you see what is now resting under my hand?" pointing, at the time, to about fifty of his letters which were on the table. I then said to him, "I advise you to pause before you repeat your answer to that question." He rejected my advice, and not without great indignation. Now those letters of his contained assertions in direct contradiction to what he had sworn. I do not say that he perjured himself,—far from it. I do not believe that he intentionally swore to what was false; he had only forgotten what he had written some time before. Now, had this occurred in an open court, he would have been ruined to the end of time—for he would not have had an opportunity of explaining the matter; he would have been suspected of perjury, when all that he was guilty of was a little too much eagerness, impetuosity, and wrong-headedness. I may be told, perhaps, that the anecdote which I have just quoted makes more against the alteration I propose than for it. I care not whether it does or not. All I have to say is, be uniform in your practice. Why do you refuse to allow a party in a cause to be examined before a jury, when you allow him to swear in his own behalf in your courts of equity, in your ecclesiastical courts, and even in the cases decided by your common law judges in the business of the term? I hope that if the committee of inquiry, for which I am now moving, be granted, something will be done to check the present practice of trying cases on affidavit. If it be right to exclude the parties from giving evidence in their own behalf in one case, it is not right to admit them to give evidence in others. I hope, therefore, that the dissimilarity of your practice in your different courts, will be a ground for yielding to me the examination I require.

The next question which presents itself to my attention is, the great question of how far interest should disqualify a witness. The ancient doctrine on this point has of late years been much restricted by the construction of our courts of law; and for my own part, I confess that I cannot see any adequate reason why all witnesses of good character and credit should not be admitted as evidence, leaving the question of their credibility entirely to the consider-

ation of the jury. In the case of *Bent v. Baker*, which was an action against an underwriter on a policy of insurance, the Court held that another underwriter was a competent witness. The rule established in that case was, that if the evidence to which a person swears cannot be given for him in another cause, he is a competent witness, although he may entertain wishes on the subject; for that only goes to his credit, as Lord Kenyon said, and not his competency. The question in *Bent v. Baker*, was, whether a person who had been employed as a broker by the plaintiff in procuring the policy to be subscribed by the defendant, and had afterwards subscribed the policy as assurer, was a competent witness for the defendant; and the Court decided that he was.

I would wish the principle laid down in that case to be still further extended, as I consider it one of great practical use and authority. Let the House look at the inconsistency of the present system. If I have the most distant interest, even the interest of a shilling in reversion, on an estate of 50,000*l.* a year, I am incompetent to give evidence on any point that affects that estate; but supposing that I have a father, ninety years of age, lunatic, bed-ridden, and quite incapable of doing any legal act for himself, and that he is in possession of an estate in fee simple, and not in fee tail, and that I expect to be his heir, and that nothing can prevent me from becoming so, I may be a witness on any point which affects his estate, and I am competent to swear into the possession of my father an estate of 50,000*l.*, to which, in the common course of events, I must myself succeed in a year or two. I therefore trust that the House will agree with me, that a line ought to be drawn between competency and credit, and that all persons should be admitted to give evidence, leaving it to the jury to determine what dependence ought to be placed on their testimony. This is rendered the more imperative by the manner in which witnesses are often made competent, by giving them a release of all future actions or causes of action. When a witness has an interest, if he divests himself of it by a release, there is no objection to his competency. Evidence is thus often cooked up for the courts, which, according to the existing rules, is not admissible. A release is given to the witness, which, if he is a man of honor, he returns immediately after the termination of the cause.

With regard to the reception of written evidence, I must say that it appears to me to be no less capriciously received than rejected. I think as highly as any lawyer ever did of the statute of frauds, and I would go the full length of the learned judge who said that every line in it was worth a subsidy. Still I am of opinion, that a few lines might be added to it which would render it even still more valuable. The French law requires that all contracts for

sums above one hundred and fifty francs should be reduced into writing. As every body can now read and write, I would wish that all contracts, to be valid, should be reduced to writing. As the law now stands, the books of a dead person can be admitted as evidence, provided he charges himself with any item, however small. Why so? It is clear that he may make such an entry in his books to get 500*l.* for his heir. I speak on this point from a recollection of what occurred on a case tried at York, which my learned friend, the Solicitor-General, will remember—I mean the case of *Barker v. Ray*. In that case, much was suggested to all the counsel concerned in it, to make them think that it would be a useful rule to admit the books of a dead man as evidence, no matter whether he charges himself with any item or not, if it appear that he has no intention of making them evidence for his heir. The law already opens the door for mischief; and I wish to see whether, by a change in the rule, we cannot find some means of counteracting it. I am induced to think that no injury could arise out of such an alteration as I propose, by the curious circumstance that entries made by a deceased rector or vicar of the receipt of tithes, have been admitted as evidence for his successor, because he was supposed to have no interest to mis-state the fact in making an entry which could not possibly be evidence for himself.

In the examination of witnesses, I think that nothing can be better than the rules already laid down. Every facility is afforded to counsel for extracting the facts of a case. There is, however, a want of uniformity in the practice of the judges towards counsel engaged in examination. Some judges will not allow them to cross-examine a witness whom they have called themselves, even though a hostile one; and others will not allow them to put a leading question to a witness, in cross-examination, if he is only nominally adverse to them. I regret that tests are excluded, by which the knowledge and skill of a witness might be tried. If I wish to try the power of a witness's memory, I am not allowed to examine him as to the contents of a letter which he has admitted that he has written—I must put the letter into the witness's hands before I ask him any questions on it. That question was raised and decided in the *Queen's case*, on a question which I had put to one of the Italian witnesses. Neither was I allowed to apply any test to his veracity. That test of his truth, as well as of his memory, is not allowed by the jealous system of our law.

There is another test of truth, of which I shall say the less, as I brought in a Bill some time ago to remedy the evil of the present law—I allude to the test of malice to be found in the truth or falsehood of any publication alleged to be libellous. I see no reason why persons of any class of religious belief should be considered

good witnesses in civil and not in criminal actions. What is the consequence of this absurdity? I was once employed, together with two learned gentlemen, to defend a man prosecuted for a misdemeanor. We required the affidavit of a respectable physician, which was prepared accordingly; and, when prepared, it put an end to the prosecution: he happened to be a Quaker, and could only affirm it, and would not swear it; so that it was of no use. This is bad every way, and as bad for innocence as for guilt, since the only saving witness in a criminal case may chance to be of that persuasion. I think that no one who believes in the existence of a God and a future state of rewards and punishments, should be excluded from giving his testimony in either kind of trial, the power of crediting the witness always being reserved to the jury: for I think the law too favorable to the character of a witness which allows nothing to prevail against his testimony, except the ignominy stamped on his character by sentence of law fully passed. I once assisted at a trial where there was a foul charge of rape, accompanied with manifest perjury. One witness was asked, "Were you not examined five times during one sessions of the peace on five different prosecutions, in which the five prisoners were all acquitted?" Though the witness answered in the affirmative, it was not held enough to contradict him as a witness *in pays*, because it was not derived from a sentence of record.

I object to that jealousy of the law which shuts out explanatory evidence essential to the right understanding of a case, from the dread of having to try too many issues; and I complain of the rule by which evidence of documents is settled in the courts. Where there is an apparent, or what lawyers term a patent ambiguity, the Court decides without the assistance of the jury; but where the ambiguity is latent—if the party mentioned, for instance, were John O'Noakes, and there happens to be two of the name in the same neighborhood, the Court retires, and the jury alone decides. This is founded on a high authority—no less a one than Lord Bacon. I dislike it notwithstanding, and endeavored, by appealing to the good sense of the Court in a particular case, to get rid of the distinction, but was overruled.

On the construction of wills, I think that some plain straight-forward rule ought to be enacted. Why should a different construction attend a gift of an estate for life by deed and by will? These interpretations are of such uncertainty, that a man is generally as much in the dark as to the quality and extent of the estate devised, before as after his decease. I admire the adoption of words declaratory at once of the intention of the testator to give an estate for life, and no longer; and I would have the expressions interpreted by a rule equally plain, though it should have the effect of render-

ing in a great measure useless, one of the most ingenious and perfect treatises written on any branch of law, namely, Mr. Fearne's book on Contingent Remainders. Why should the appointment of a debtor as executor be held in one case to be a release of his debt, in another not? In respect to real property, a man might have two wills of the same date, and destroy one because he knew that his friend had the duplicate. This would, in some instances, be held to be a vehement inference of the intention of revoking his will. Suppose a man, having made a will, to convey his estate but for one moment out of his own holding, the construction would be that he was in again of the old use, and the will would be void. Lord Erskine lost a considerable estate in Derbyshire by the testator suffering a recovery, to make his possession more secure. Lord Hardwicke judged, in a case where a man had declared that he had suffered a recovery, the better to confirm his will, that he was in of the old use, and the will was revoked. I complain also of the different treatment of wills in different courts. In the civil courts no evidence is admitted on them but in writing. In the common law, written evidence is excluded, and none but parole evidence admitted. I know a case where the ecclesiastical courts found a will to be invalid on evidence which was set aside on cross-examination orally before the common law for manifest conspiracy. The rule should be the same in every court; one rational, uniform, and consistent law should guide them all.

I next come to the statute of limitations, and complain of the law allowing so many stratagems for taking the case out of the statute. Lord Plunket once observed, with his usual strength of beauty and expression, that Time is armed with a scythe wherewith to destroy all things, but the legislature makes him move with healing on his wings to preserve all things by a statute of limitations. But lawyers have converted that which was intended for peace and quiet, into disquiet and perpetual uneasiness. So far have they carried their perversions, as to assert that there was no case which could not be taken out of the statute. Lord Erskine said, that when a man had a fishing witness sent to him to take a debt claimed of him out of the statute of limitations, his safest course was to knock the witness down, and be tried for the assault. I would prop up the statute of limitations by the statute of frauds; and nothing should take the case out of the former statute but an admission in writing.

In questions of real estate, where the *seisin* of the ancestor is pleaded, there must be proofs of 60 years' possession; where the party pleads his own possession, only 30 years; but in a *formedon*, 20 years are enough. It is not less desirable than just to reduce all these to one period of limitation. The forms of proceeding in

these cases, which are wholly opposite to other cases, tend to grievous injustice. The demandant has to set out his title at length, leaving his adversary at liberty to lie in wait to pick holes in his pedigree, perhaps without possessing the slightest sense of justice as to his own possession. In ejectment, if a man has been out of possession but for a single day, he is immediately placed in that adverse position. In a writ of right at York assizes, the counsel for the demandant discovered a flaw in the title, and obtained leave to withdraw the record. At the next assizes it came down for trial, and they were surprised to find the defect in the title removed by a document obtained out of the Bishop's chancery, some weeks after the spring assizes, in which the tenant would have been defeated, had they gone to trial. There is no statute of limitations for the church, and I cannot see why there should not be one. I would not fix the period to 60 years. But I can assign no just reason for the existence of the *nullum tempus* law, by which those possessions are secured. A composition may have been made between a clergyman and his parishioners. It may have been paid for 200 years; and if at the end of that time the proofs of the original agreement should be lost, as they are almost sure to be among farmers and persons who work in the fields, and the clergyman should claim the tithes, there is no bar by limitation. Indeed, there are cases in which the clergyman has thus retained the land given originally for the composition, and has the tithes paid him besides.

I would advise the appointment of sworn short-hand writers to take notes for the judges, that their attention may be given more to the points than to the facts, which, as the practice now stands, make no part of the record, except in stating them to the Court, in term, as reasons for granting a new trial. I think counsel ought to be allowed to comment on their own cases. They are obliged to open their cases generally, because experience has gradually taught them the danger of breaking down. They are left, too, by the present practice, in the difficulty of a compromise between the danger of calling witnesses for the defence, and leaving the case open to reply. The law should not allow this play of the counsel, but each party should be bound to put forward his whole case in pleading.

I next come to the execution of the law. As I would allow no hand to touch the defendant in action for debt, except on the intention of flight, and as I would allow no molestation of his property or affairs in the course of the proceedings, so I would admit of no let or hindrance in the fulfilment of justice after sentence pronounced. I would make all his property equally available to the payment of his debts. That man must be inconsistent as a

reasoner, or of a very rickety state of mind, or else very unprincipled, who would, at this time of day, propose to uphold the dignity of the aristocracy, by converting any portion of them into fraudulent and dishonest debtors. I would also recommend some change in the award of certain actions (*trover*, *detinue*, and *replevin*), from money to specific performance, as is done always in Chancery, and in all judgments of common law made in *banco*.

The worst chapter of the law, as it now stands, is that between debtor and creditor; and I am safe in saying that it is the worst known in Europe. A man may die in debt, by simple contract, for 10,000*l.*, and the land which he may have purchased with that very money cannot be attached for the debt. Lord Mansfield, whose luminous mind was never undervalued, except by those who were either jealous of his fame, or ignorant of his value in the science of jurisprudence—whom no one ever attacked for a deficiency in his knowledge of the laws (with the exception of one great writer, whose style gave currency for a time to the assertion, though accompanied by an obvious want of legal knowledge in himself)—that great man noticed many of the discrepancies of the law with the eye of a philosopher who was not to be changed by the habits of the practitioner. Among the rest he observed, in a judgment on a case where the sheriff had seized money in a distress, that the law did not allow a sheriff to seize money, “for this quaint reason, because money cannot be sold, and you are to take your debt out of the produce of a sale of the debtor’s goods.” So that if a man were distrained for 5000*l.* which might be all counted down and lying on the table, the sheriff cannot touch the money; and Lord Ellenborough actually denounced the attempt, in a more recent case, as an innovation of the law, which required immediate correction. Formerly, it was the practice to adhere to the letter, contrary to the spirit of the law. I would, by changing the letter of the law, preserve its spirit. In times of old, a man’s property solely consisted in his goods and chattels. Money was then but little used. There were no bills of exchange—no stocks—no funds. Land was then unrepresented by money, or other transferable securities. The funds have since risen; money has come into general use; credit has followed in the train of trade. Are we, then, still to retain the old law? and shall it undergo no change when circumstances have arisen totally opposed to those under which it was enacted? Sir, I defy the wit of man to prevent innovation. He who raises his voice against innovation, and says, “Don’t change the law,” while he admits that the times and circumstances are totally changed, is himself the real innovator. It is in the nature of things that change must produce change. We behold a vessel sailing down a stream; a boat glides in its rear—

"pursues its triumph, and partakes the gale." As well might a man on the shore cry out, "Stop the boat, that it may not follow the ship;" as he who would raise an outcry against innovations, and endeavor to retain us in our position by opposing all improvement. We must accommodate the law to the circumstances of the times. The laws, and the circumstances which those laws are intended to meet, must be maintained in their relative position; like the ship and the boat, they must float down the stream of time together.

Such is the great dispensation of Providence, and over it we can exercise no control. It would be a fatal maxim, indeed, that there should be no change in the law—no adaptation of it to the times in which we live. He who would support such a doctrine, would be himself the greatest and most violent innovator of all. I would have all a man's goods seized, to satisfy the demands of his creditors. I would have the person of the guilty debtor—of the man who conceals goods, that he ought to give up—also seized. I would have the circumstances of such a man thoroughly sifted, and every particle of his property made available to the claims against him. But after seizing on all the goods of a debtor, I would not take up his person unless his conduct had been criminal, or quasi-criminal—unless he had been a rash adventurer, or a speculating swindler, who had existed on fraud, and obtained goods for which he never intended to pay. Such distinctions are frequently made in the Insolvent Courts. Imprisonment is there, in many cases, imposed as a satisfaction for the debt—not that the law considers such imprisonment as a means of contracting payment of the debts originally incurred, but it is inflicted as a punishment for the misconduct of the fraudulent debtor. If it were in the power of the Court to separate the question of property from that of the conduct of the individual, and to say, this debtor shall be imprisoned for three months, and that debtor for six months, awarding a punishment proportionate to the degree of criminality, as is done every day in the Insolvent Debtors' Court, then I would say that this branch of the law had attained to as much perfection as it is susceptible of, in the nature of things.

There are one or two remarks which I wish to make on the subject of appeals. They flow obviously from the former principles which I have laid down. I would endeavor to prevent vexatious litigation, by way of appeal, for the purpose of delay. I would not make it an object to individuals to obtain delay, by defending actions at great expense. I would have the party, in a case of appeal, give full and good security, and on this condition, that if the Court decided against him, his security should be forfeited, and handed over to the respondent. The right honorable gentleman opposite (Mr. Peel) has recognised the same principle

in his Bill, modifying the Act of James I. I would allow a judge the power to say, that a debtor may pay by instalments, on giving a good security, and I would leave the whole matter to the judge's legal discretion. The consequence would be, that property would not be uselessly torn from a man—that needless delays would not be interposed to obstruct the adjustment of his affairs, and that his creditors would be afforded a cheap, safe, and expeditious mode of recovering their respective claims. Parties would be prevented from seeking delay by incurring the formidable expense of going to trial, and afterwards of taking out writs of error, were these measures adopted; and I have great hopes that they will be adopted.

I have said little or nothing on the subject of costs, and yet it is one of great importance, and immediately connected with this discussion. Should a man ask my opinion as to whether he should institute an action in a certain case, I would not advise him, or any man, to do so against a pertinacious debtor. He might get a verdict for 20*l.*, the amount of his claim, but he would have, perhaps, 30*l.* or 40*l.* to pay in the way of costs for the action. I have known an instance in which the action was on a bill for 428*l.*, and the costs amounted to 202*l.* The plaintiff gained in every stage of the proceedings, and he lost, in the end, 202*l.* In another case, where the verdict was for 217*l.*, the costs amounted to 76*l.* In the Court of Exchequer, where the expense of law proceedings is not, comparatively speaking, great, I have known a case where the demand was for 63*l.*, and the costs were 14*l.*; another, where the demand was for 48*l.*, and the costs amounted to 24*l.* The same costs are incurred, whether the action be instituted for 60*l.* or 600*l.* Similar costs will be incurred, whether the plaintiff's demand be under or over 100*l.* How can such a state of things be remedied? Obviously by establishing better rules of law. The attorneys have been deprived of certain charges on divers matters, and they make amends for that by increasing their charges on other matters. They are not at present allowed to charge for a consultation with counsel, a thing in many cases frequently necessary; they are not allowed to charge for preparing the cause for trial; and they are not allowed the expenses of the witnesses required to sustain it. In an action for 228*l.*, I have known the expenses incurred in procuring witnesses to amount to 147*l.* I would adopt a different practice; I would enable a plaintiff to see his way in the bringing of an action, so that he might be aware of the costs incurred as he proceeded, and that he could stop at an early stage, if he did not feel it prudent to incur more expense. You see the evil effects produced by a partial change of the law. The whole system hangs together: take away one portion, and instead of consolidating, you disturb and disjoint the remainder. It is, as

in the physical body, where you can never cure a fracture, unless you attend to and examine the system at large. What would be thought of a surgeon who should set about reducing an apparent luxation, without previously ascertaining whether a false joint had been formed? You must look at the whole system of the law together, in order to arrive at a temperate and proper reformation of its abuses. Are you afraid of changes? We have, I can inform you, great authority on our side. I need not travel to the reformers of the laws of Scotland—of a people as jealous of their rights, and justly so, as any under the sun. There were none so prone to change, improvement, and consolidation, as the old lawgivers of Scotland. Before the Justinian code, it is said the civil law was comprised in 2000 volumes: your own statute-book furnishes another sad example of the accumulation of laws. The whole statutes of Scotland are comprised in three small duodecimos. Will you hesitate to reform when you behold it effect such benefits? I take my authority from Lord Hale, than whom there never existed a man more firmly attached to the constitution of the country. He says, “By long use and custom men especially that are aged, and have been long educated to the profession and practice of the law, contract a kind of superstitious veneration of it beyond what is just and reasonable. They tenaciously and rigorously maintain those very forms and proceedings and practices, which, though possibly at first they were seasonable and useful, yet by the very change of matters they become not only useless and impertinent, but burdensome and inconvenient, and prejudicial to the common justice and the common good of mankind; not considering the forms and prescripts of laws were not introduced for their own sakes, but for the use of public justice; and therefore, when they become insipid, useless, impertinent, and possibly derogatory to the end, they may and must be removed.”—Such is the language of Lord Hale. I could also adduce the authority of another great lawyer, Mr. Shepherd, to the same effect. I may also refer you to an extremely able work, lately published by Mr. Parkes, the solicitor at Birmingham, entitled, “A History of the Court of Chancery.” It displays great learning, and considerable research into the history of the common law.

The Parliament of the Commonwealth, in 1654, appointed a committee to reform the laws. Who was appointed at the head of that committee? The then member for Cambridge—Oliver Lord General Cromwell. He, indeed, was of a more martial character than my learned friend opposite, the present representative for that University. If Lord General Cromwell's name were the first on the list of the committee in the House; which was first on that out of the House (for the members of the com-

mittee were selected both in and out of the House)? The name of Matthew, afterwards Sir Matthew Hale, occupies that station. He was, I need not add, the greatest lawyer of his day. That committee proposed various remedies: amongst others, the establishment of a small debt court—of a county court—of a court for fraudulent debtors—the formation of a general registry; and they likewise recommended that defendants in criminal actions should be allowed to examine witnesses on oath in their defence. Such was not the law at that period. It was reserved for the times of Queen Anne to see this judicious recommendation of the committee of the Cromwellian Parliament carried into effect. After the Restoration, a committee was appointed to examine the laws, and to propose such remedies as they considered necessary. There were fifty-one lawyers on that committee. Three or four bills were introduced by them, and passed through several stages in this House for the general amendment of the law.

I now wish you to institute a similar inquiry. I call on you to enter speedily and rigorously into an examination of the present state of the law, with a view to its general amendment. In such a project I expect to receive support from Government. What, it may be asked, are my hopes? I do not expect figs from thorns, nor roses from thistles. But why should not the fig-tree bear fruit, and why should not the rose put forth its perfume? I am no prophet, certainly; but there are members of the present Government whose liberal opinions promise me assistance, and some of whom have given very recent expression to those opinions. There are other members of the Government with whom, I lament to say, I differ widely on a great and important question. The gentleman, however, to whom I more particularly allude, satisfactorily agrees with me on the leading points of the momentous question which I have brought under your notice this night. Is it too much, then, to expect the support of the present administration? At all events, I repose with confidence on the support of this House. You have a great and glorious race to run; your name will go down to posterity as that of the most useful and important Parliament that ever met. The far-famed conqueror of his time, the victor of Italy and Germany, counted all his triumphs pitiful and not worthy of being mentioned; while his name, he said, would descend to future ages in company with that code which he had established. Try to rival him—not in the desolating paths of war, but in the sacred arts of peace. The flatterers of the Edwards and the Henries compared them to Justinian,—a far higher praise could be with truth bestowed on that Parliament, and that King, under whose sanction, by whose assistance, counsel, and advice, a thorough and wholesome amendment should be

effected in the laws of this realm. If a crown, to my simple view, possess any lustre, it is because it enables those who wear it to promote the welfare of mankind. Augustus boasted that he found Rome brick, and that he left it marble. A greater boast may yet be made by your King—that he found the law dear, and that he left it cheap; that he found it a sealed book, and that he left it a volume open to all; that he found it the patrimony of the rich, and that he left it the inheritance of the poor; that he found it a sword in the hands of oppression and craft, and that he left it the staff of honesty and the shield of the innocent. To me, much reflecting on these things, there is no higher glory to which my ambition could aspire;—there is no honor which, as a man and a lawyer, I would more greedily covet, than to be the humble instrument of directing your labors to this all-important object. For office, or patronage, or emolument, I care not: I am content with what the labor of my hands supplies me. To me power has no charms: I shall on all occasions fearlessly, and I trust faithfully, support my fellow-countrymen when claiming their just rights; and there is nothing I know of their lawful grievances which I shall not lay before this House and the world. The power to advocate the rights of my fellow-countrymen within these walls, as well as out of these walls,—that is the power which I desire to possess and exercise. It is a power which is given to no changes of the Government, and which cannot be taken away by any Ministry.

Sir, I move, “That an humble address be presented to his Majesty, praying that he will be graciously pleased to issue a commission for inquiring into the abuses which have been introduced in the course of time into the administration of the laws of these realms, and to report on what remedies it may seem fit and expedient to adopt for their removal.”

On the 29th of February, the following Resolution, substituted by Mr. Brougham, with the assent of Ministers, was carried unanimously:

“That an humble address be presented to his Majesty, respectfully requesting that his Majesty may be pleased to take such measures as may seem most expedient for the purpose of causing due inquiry to be made into the origin, progress, and termination of actions in the superior courts of common law in this country, and matters connected therewith; and into the state of the law regarding the transfer of real property.”

LETTER
TO
THE EARL OF ELDON,
ON
THE REPORT OF THE FINANCE COMMITTEE.
By **GEORGE FARREN, Esq.**
RESIDENT DIRECTOR OF THE ASYLUM LIFE OFFICE.

LONDON:—1828.

MY LORD,

HAVING been permitted the honor of dedicating to your Lordship my works "On Life Insurance" and "On the Laws of Climate and Disease," I cannot refrain from calling attention to the speedy confirmation of the truth of the hypothesis therein advanced, and of the correctness of your Lordship's opinions which I have had the honor to record.—This confirmation is rendered by the report of the Finance Committee, which calls the attention of the House to the expediency of repealing the act by which the commissioners for the reduction of the National Debt are empowered to grant Life Annuities.

The necessity for correct estimates of the value of human life appears to have been fully appreciated by your Lordship; a conviction arising, no doubt, from your knowledge that few estates in this country are held intirely free from charge, in respect of some life contingency.

Your Lordship is so profound a lawyer, that it is only necessary for me to call your recollection to the fact, that the first estimates of the probabilities of human life were made by Ulpian in the third century, to provide for the execution of the Roman law, called *Lex Falcidia*.

In this country, although many loans for the service of Government were raised on Life Annuities soon after the Revolution, it was not until 1693 that any scientific approximations of the values of life contingencies were made; indeed, until 1762, so little was known of the business of Life Insurance, that the two chartered companies charged in every case the same rate of premium, whatever the age of the parties might be.—In 1783, Dr. Price published a fourth edition of his work on reversionary payments, with tables of annuities on lives, deduced from the probabilities of life at Northampton, and as observed in the kingdom of Sweden.

An excellent mathematician of the present day, in writing of this work, says, "Dr. Price's object was not so much to insert what was new, as to illustrate, by some striking examples, a few of the leading problems, with a view to oppose the pernicious schemes that disgraced the age in which he lived.—But those schemes having long since vanished, his observations may now be considered rather as a *beacon* to posterity." The imperfections of the Northampton tables have been fully shown in the last edition of Dr. Price's work, (vol. i. p. 183.) published by Mr. Morgan; in which, on a comparison of the mortality exhibited by the Northampton table with the *actual* mortality among the members of the Equitable Life Office, during a period of forty-two years, on a general average of deaths, only two out of every three presented by that table appear to have taken place; and at the early periods of life, only one out of two.

In 1808, the Commissioners for the reduction of the National Debt were empowered to grant Life Annuities, and these rates were founded on the expectations of life exhibited by the Northampton tables.

In 1828, the Finance Committee report, that "having in the course of their inquiries discovered that the conditions under which the Commissioners of the Sinking Fund are required by the Act for enabling the Commissioners for the reduction of the National Debt to grant Life Annuities are extremely disadvantageous to the public, they feel it to be their duty to call the immediate attention of the House to the expediency of repealing that Act."

Thus it appears that by the Northampton tables great loss has been sustained by the public, on *sale* of Life Annuities, and most exorbitant profits have been obtained by the Insurance Offices on *purchase* of Life Annuities; I say purchase, because every life premium paid on an insurance is an annuity to the office of the amount of that premium during the existence of the party on whose life the insurance is granted, in consideration of the supposed value to be paid at his death. That the loss by *sale* of annuities has fallen on the public at large, is a fortunate circumstance for the individuals who purchased; as your Lordship has deeply lamented your inability to afford relief to those who had trusted for *payment* of such annuities to less stable security than the Government revenues.

In proportion to the good fortune of many who purchased annuities from the Government on faith of the Northampton table, has been the improvidence of those who brought *life insurances* from *public offices* which adopted the same estimates of mortality; estimates which, if the annuities sold had been equal in extent to the annuities received, must, by involving the offices in inevitable

ruin, have produced the disastrous consequences which your Lordship has so feelingly deplored in the cases to which I shall presently refer. It is manifest from Mr. Morgan's own statement, in his edition of Dr. Price's work, that if at a particular age only one death took place where two deaths were represented by the table of mortality, from which the premiums were deduced, the parties insuring at that age would have paid double the price which the true risk required. Now, although this shameful excess may not be sufficiently apparent, when the premium is paid *annually*, it becomes perfectly obvious, if we suppose the insurance to be paid for by one sum, instead of by an annual premium. Mr. Bailey, in his excellent work, exposes this imposition in its true light:—

“A person aged 20 is desirous of assuring his own life for 5000*l.* The sum demanded for this purpose, by all the assurance companies, (in 1813) is 2140*l.* 2*s.* But the true value of such sum, as deduced from the Sweden observations, is no more than 1422*l.* 10*s.* if we take the rate of interest at 4 per cent; and no more than 1128*l.* 10*s.* if we take the rate of interest at 5 per cent: or, when deduced from the observations of M. De Parcieux, it is no more than 1358*l.* 2*s.* taking interest at 4 per cent; and no more than 1078*l.* 16*s.* taking interest at 5 per cent. A person, therefore, of this age, who insures the above sum at any of those offices which make no return of any part of the premium, may be considered as *throwing away* between 700*l.* and 1000*l.*”

In computing the value of 5000*l.*, payable at the death of a man aged 20, by a table deduced from the most correct modern observations, and agreeing most accurately in result with the actual mortality among the members of the Equitable Society during a period of forty-two years, it is found to be only 1276*l.* 7*s.* taking interest at 4 per cent; and only 995*l.* 19*s.* taking interest at 5 per cent: being in the former case little more than half, and in the latter case considerably less than half the price charged by the antiquated assurance companies.

Such is the difference, in a single instance, between the values of life interests calculated according to the Northampton table of mortality, and those deduced from correct modern observations. And hence it may be inferred how prejudicial a reliance on calculations founded on the Northampton table must be, in cases in which the value of property depending on life contingencies is involved. But, my Lord, there is another branch of this inquiry which extends to persons who have always excited the warmest sympathy, and have always received the most generous protection from the government of the country—I mean the members of benefit societies: select committees of the House of Commons have fre-

quently directed their anxious attention to this subject, and as recently as June last, have declared that of several scientific gentlemen then examined, (among whom was the actuary of the life office of which I am the founder,) no one, except a country clergyman, and Mr. Morgan himself, recommended the Northampton tables as a safe basis of a deferred annuity. That these committees have only tardily adopted a course which your Lordship suggested as far back as 1808, will be seen from your Lordship's judgments, which by your kind permission I was allowed to record in an appendix to my work, in 1823.

In the case of *Pearce v. Piper*, (in the course of which *Buckley v. Cater* before Lord Thurlow was mentioned,) the bill stated articles of agreement, dated 25th June, 1798, for the establishment of a society under the title, "*The Amicable Society of Master Bakers*," for raising an annuity fund, containing provisions for the payment of annual subscriptions, &c. ; and that every subscriber, who should have been a member seven years, and should have attained the age of sixty years, should be entitled to a clear annuity of 60*l.* for life, and the widow of every such annuitant to an annuity of 30*l.*, or, in certain cases, 60*l.* for her life, if she continued a widow : in giving judgment, your Lordship said, "The parties who formed this society proposed to establish, certainly, a very useful institution, to the success of which every one must wish fairly to contribute ; and regret the failure, if there is in the original constitution some error fatal to its existence, arising from the desire of different individuals to have, towards the close of life, that degree of ease and comfort which a proper application of the fruit of the labors of their more early years might produce. If they cannot agree on some plan, I must refer it to the Master to make similar inquiries to those directed by Lord Thurlow, taking the assistance of a calculator ; and to inform me, if this society cannot longer exist, what will be an equitable distribution of the funds subscribed. But that course is not to be taken, unless the Court shall be unable to do more justice, by securing to those who have and may become entitled to annuities the enjoyment of them."

In *Davis v. Fisk*, also, your Lordship observed, "The hardship or injustice of the case may be urged ; but many gentlemen of the bar must remember the cases of the unfortunate annuitants—widows who had subscribed small sums during a certain portion of their lives, to receive annuities after they had reached a particular age. The one case was before my Lord Thurlow, and the other before myself. That learned lord felt most acutely his inability to afford relief, by reason of the situation of the parties ; and, however much he might have lamented his want of power, I am sure I suffered as much on my own account."

Your Lordship is perfectly aware, that in almost every trade and profession, a different rate of mortality will be found to prevail; and I assert with perfect confidence, that materials may be obtained, from which to deduce the correct values in every case. A census of the population of the whole kingdom once in five years, carefully setting forth ages and occupations, and the bills of mortality in which the ages and trades were also distinguished, would be data enough; and these would not cost a tythe of the amount lost by the Government annually by sale of annuities, deduced from imperfect materials.

The probable deterioration of the expectation of life by chronic diseases, may likewise be reduced within very narrow limits; I speak advisedly, when I say that authentic records of the treatment and duration of such maladies, in a great many thousand cases, and spreading over a long series of years, may be obtained, and reduced into a tabular form. Shall we then, in a matter of great national importance, reject our better information to act on mere approximations made before the proper data for accurate deductions could be obtained? Shall we in this one case travel backwards half a century? I humbly venture to assert that this should not be, and to hope that it will not be.

Lunacy (as mania is generally called) has frequently come under your Lordship's judicial notice; and has always received your most anxious and benevolent attention. Is any prognosis of this distressing and increasing malady to be formed from observations founded on the bills of mortality, fifty years ago, at the town of Northampton? Shall we measure the probable existence of a person so afflicted, by the insufficient materials afforded by the deaths among the inhabitants of a small inland town? Is it right, in the present improved state of medical science, to estimate the chance of life in such a case by the treatment adopted more than half a century ago, when narcotic drugs and oblivious antidotes were thought the most proper, because the most stupifying, remedies? As well might we seek to drown madness in intoxication, and await the feast of reason from the orgies of Bacchus.

Your Lordship's opinions, which now appear with the force of predictions, have been fully confirmed; and although their fulfilment has been shown at a time when you have thrown off the forms of state and the labors of office, those opinions are still revered, your suggestions would still be thankfully adopted,—and your voice is still potential.

I am, my Lord,

Your Lordship's much obliged and obedient servant,

GEORGE FARREN.

Asylum Life Office, 70, Cornhill, London.

March 21, 1838.

A LETTER
TO
JOHN HUGHES, ESQ., M.A.
ORIEL COLLEGE, OXFORD,
ONE OF HIS MAJESTY'S JUSTICES OF THE PEACE IN THE
COUNTY OF BERKS,
ON
THE SYSTEMS OF EDUCATION
PROPOSED BY THE POPULAR PARTIES.
BY THE REV. JOHN PHILIPS POTTER, M. A.
ORIEL COLLEGE, OXFORD.

Omnino, qui reipublicæ præfuturi sunt duo Platonis præcepta teneant : unum ut utilitatem civium sic tueantur, ut, quæcunque agunt, ad eam referant, obliti commodorum suorum : alterum, ut totum corpus reipublicæ curent : ne dum partem aliquam tueantur, reliquas deserant : ut enim tutela, sic procuratio reipublicæ ad utilitatem eorum, qui commissi sunt, non ad eorum, quibus commissa est, gerenda est : qui autem parti civium consulunt, partem negligunt, rem perniciosissimam in civitatem inducunt, seditionem atque discordiam ; ex quo evenit, ut alii populares, alii studiosi optimi ejusque videantur, pauci universorum.—*Cicero de Officiis*, lib. i. sect. 25.

SECOND EDITION, WITH ADDITIONS AND CORRECTIONS.

LONDON :—1828.

MY DEAR HUGHES,

THERE are few to whom I could with greater propriety address an argument in proof of the superiority of a classical education, as a discipline for the mind, because few have derived greater advantages than yourself from studying the style and matter of the great writers of antiquity—few have minds richer in “the spoils of time”—few have more philosophical views of philology, greater acuteness in logical investigation, or more skill in detecting the arts of the rhetorician—still fewer have brought the precision and system, which this discipline is pre-eminently calculated to cultivate, to bear with more effect on the business of life.

Nor is the propriety less evident of addressing a defence of religious and moral principles, (I unite these, because I am sure they are so identified in the minds of the people as to be perfectly inseparable, and that to undermine the former is to destroy the latter—at least is to insure an interregnum of crime for which history has no parallel,) to one who as an individual, the master of a family, a country gentleman and a magistrate, affords an example

of religious conduct equally remote from the errors of the ascetic, the fanatic, and the formalist; and who is not more respected as a firm and temperate enforcer of the laws, and as a refuge to those whose crimes have arisen from distress, than as setting an example of the force of religious principle in its best practical consequences—in good will to man and a zealous promotion of his interests.

Pardon me, if I so far transgress from my subject as to remind some of my readers, that it is to the claims of a duty scarcely inferior in importance to that of the senator, that we are principally indebted for the deep interest in the welfare of the lower orders which actuates the most respectable of our country gentlemen, and for that consequent respect towards the higher orders which prevails among our agricultural population, and which, as you well know, it is in the power of each country magistrate to increase, at least within the range of his influence, in a degree almost unbounded. Even in the mercantile districts I have seen that effected by an unpaid magistracy, which it would have been utterly impossible for a functionary paid by the public to have accomplished. You have often heard me mention, that in the course of the popular disturbances in the neighborhood of Manchester, my deceased grandfather strong in the authority of high character and undaunted resolution, but in person feeble and in the decline of life, rode fearlessly into the very midst of a riotous mob, and took their standard from the hand of its bearer without being either resisted or assaulted. That this boldness would not have been borne from one to whom the character of a hireling could possibly have been affixed, was proved by the fact of his colleague, who had been in the pay of government as an officer of dragoons, being with little ceremony attacked, *λευσμιφ ποτραματι*, for a much less aggravated offence against the majesty of the populace. What I have said will little avail those, whose conduct has given occasion for a senseless clamor against the magistracy of the country. If there have been a few instances of magistrates who, from gross ignorance, culpable neglect, unjustifiable prejudice, or, worst of all, for their own base interests, have corrupted the greatest of blessings, let universal indignation and contempt set its brand on the individuals; but let not the body suffer in the public opinion. There have been cowards and traitors even in the British army and navy, but who, therefore, questions British courage or British honor? Or if there be a defect in the present means of insuring a sufficiency of legal knowledge to the magistrate, let our Universities supply the remedy, but let us not listen with any other feeling than suspicion and contempt to those who speak of a hired magistracy.

But though the propriety of your being addressed on such subjects is abundantly evident, it by no means follows that I am the

fit person to address you. Indeed, had any of the great champions of classical learning come forward to repel the attack, of which I am about to expose the feebleness and petulance, I should have been well pleased to be a witness instead of an inflictor of such chastisement. But as the heroes of the fight have declined this service, doubtless considering it unworthy of their names and prowess, it may be permitted to one little practised in the polemic art to essay the adventure, especially (to quit the language of metaphor) as the subject has been forced on my attention in the course of collecting materials for an elementary work on philology, to have written or to read which I must acknowledge to be a waste of time, if I cannot disprove the assertions which I shall now proceed to examine.

They will be found in an article on "The present System of Education," in the seventh number of the *Westminster Review*. If they are a fair specimen of the contents of that work, we may infer, however it abounds in the inflammable and acid principles of radicalism, that the compound is as weak and harmless as the union of the hydrogen and oxygen of the chemist.

After a proemium, in which the reviewer sets forth his mission "to teach the great mass of the public the vast effort of doubting the wisdom of their ancestors, for this we were ordained," he commences his labors by contrasting the progress that has been made in arts and inventions, as "the cotton-engine, the steam-engine, and the three-decker will testify," wherein, he proceeds, "we have despised our ancestors and proved their wisdom folly, and as (*ως, or or οσον?* philology teaches us to be correct in such winged trifles,) we have despised them, we have risen and flourished," with "our neglect of that fundamental engine, education, the very machine of all machines with which we must work out these results. We have," he repeats, "wanted courage to disclaim the worn-out machinery of our ancestors, [really it would be wonderful if the fundamental engines of our ancestors had not been worn out, considering the wear and tear they must have had at Eton and Westminster, where the very machine of all machines is far from being 'neglected,'] and to invent and apply for ourselves to mind, as we have long done to matter, new powers, new combinations, and new proceedings." P. 148.

If this had been a declamation against flogging, we should have given the right hand of fellowship to the reviewer; for we are so far radicals that we hate the system of giving a dull boy a hundred or more whippings in a half year; and think that if it be not, as the reviewer justly observes, "pernicious, it is useless—at least it is purposeless. If it be but purposeless, it has still the evil result of occupying valuable time, of consuming valuable means (for we

do not object to a few effectual floggings in terrorem) to no end." P. 149.

We beg the reader's pardon for having been a little too facetious; and must now assure him that the above objections are not directed against the system of flogging, but against our whole system of education. "We maintain," says the reviewer, "with all our vigor of argument, and example and anger, the system which cultivates the rough desert of man's mind, as it was cultivated when man was a tyrant or a slave, when he was ignorant of arts and sciences, comfortless, powerless, and debased; which makes monks when there are no longer convents." P. 150.

Now, what are these "new powers, new combinations, and new machinery," which the reviewer would recommend us to adopt? Can we, however far we propose to advance, commence our scientific studies more prudently than by making ourselves masters of arithmetic, Euclid, and algebra, which is the course of discipline every good school actually teaches, and every school pretends to teach? Surely the system need not be altered, whatever the execution of it in individual instances may require! The reviewer does not believe the scientific digestion of the present age to be so much improved, that our children will intellectually swallow a steam-engine or a cotton-engine at one gulp, without some previous acquaintance with definitions, postulates, axioms, problems, theorems, corollaries, &c. Can he then believe, that we may enter on the study of moral philosophy by bolting a treatise of political economy without any previous discipline? If he admit the necessity of such discipline, can he, after a diligent examination, assert that the grammar of Cobbett, the logic of Bentham, and the rhetoric of we know not who, are better engines for teaching these most important preliminary sciences, than the grammars of Scheller and Matthiæ, and the logic and rhetoric of Aristotle? Does he consider the moral and political observations of Thucydides and Aristotle, Tacitus and Cicero, only fitted "to make monks, when there are no longer convents"—"to prepare men for marching under the influence of insanity and a red rag to war against Palestine and pestilence?" (p. 149.)—or "that such studies are as purposeless as if the man who is to live by rope-dancing were to labor for instruction at the anvil," &c.? P. 153.

We also "have been so far *τυττω*ed into a sort of stupid inexplicable respect for antiquity," (p. 161.) that we look with the same admiration on the literary works of the Greeks and Romans, as we do on their works of art. We are so bigoted as to consider Herodotus and Livy the inspirers of a manly patriotism in defence of home and native land—as supplying us with valuable knowledge

of forms of government, which, though long passed away, may well deserve our attention, and the records of them become foundations on which much similar information may be raised—as suggesting many a glowing thought and many a beautiful association to those who can think and feel. We have imagined Thucydides and Tacitus to instruct us in the miseries of popular anarchy on the one hand, and of despotism on the other; and to furnish us with a series of well-authenticated facts and deep political reflections, not surpassed in importance even by the writings of those who have most benefited from the study of those great historians. Of the orators and poets of Greece, it is almost as absurd to speak in praise, as it would be to assert that the Apollo Belvidere or the Venus de Medicis are fine statues, and the Parthenon and Erechtheion handsome buildings.

Respecting the works of Aristotle, which are ever the butt of their sharpest arrows, it may be safely asserted, that if from the treatises on logic, rhetoric, poetry, and morals, which have been written since the times of the Stagyrice, were subtracted every thing which is better taught or implied in his writings than in those of his followers, the remainder might be summed up in a very few figures. Nor can there be a more instructive or more gratifying exercise, than that of dispersing over the vast framework of Aristotle, (that skeleton of a literary giant!) whatever additions have been made by modern, and whatever illustrations may be derived from ancient writers. ‘—But great men have, forsooth, set the example of speaking with contempt of the philosophy of Aristotle! Will then the philosophers of the present day take as their motto, “*addicti jurare in verba magistri*,” even though that master be Bacon or Locke? Will they not inquire whether these great men derived their opinions of Aristotle from a careful perusal of his writings, or from translators, imitators, and commentators? Would they be content that the merits of Shakspeare be thus estimated? Is it not notorious, that those who are loudest in censuring the philosophy of the Stagyrice have never read his writings? Is it not evident from the way in which they speak of his works, that they are even ignorant that these may be divided into moral and physical treatises; and that, granting the latter to be superseded by the works of later writers, (a fact which no admirer of Aristotle’s philosophy dreams of disputing, few indeed could dispute without

And let it be remembered, that similar additions and illustrations may be introduced by inferior scholars into the pages of Cicero de Officiis, de Oratore and de Finibus. Writers against a classical education forget that the reading of Aristotle and Cicero, and the non-reading of Butler, Adam Smith, Paley, &c. &c. are not terms simply convertible.

falling into the error of their opponents, by talking of works they had never read,) still, it no more follows from his mistakes in physical science, that the *moral* writings of Aristotle are deserving of neglect, than it follows that the poetry, oratory, and history of Greece are worthless, because her natural philosophy was empirical; no more, than that the wisest of the moderns was empirical as a natural philosopher, because as a courtier he was "the meanest of mankind."

Nor can there be a more unfounded accusation than that which is ever and anon brought forward in every shape of assertion, assumption, and implication; to wit, that Aristotle opposed inductive reasoning. The well-known fact, that the philosopher employed himself in registering observations respecting the animals sent him from Asia by Alexander, is a practical answer to the calumny. Does he not speak again and again of induction being the foundation of all syllogistic reasoning? Is he not most careful to derive all his knowledge from realities? Can any philosopher keep more clear of the *εἶδη* and *οὐσιαι*, the species and essentia in the metaphysical meanings of those words? He may indeed be said *κατ' ἐξέχην* to derive his observations from facts and realities—*ἐξέταξις*, in the true sense and derivation of that word. It is this which has given to his writings a superiority over every other school of moral speculation. In spite of bad translations and worse comments, false and injudicious friends, and able and bitter enemies, the works of the Stagyræite, as containing almost all the knowledge on moral subjects of a most intellectual people, sifted and refined by a mind of unequalled comprehensiveness and subtlety, and written in a style of admirable precision and force,¹ will continue to hold the very first place as a means of intellectual discipline in the opinions of those who have sufficient scholarship to study these writings in the original. Even those who have not this means of judging for themselves, may yet have a well-founded suspicion, that the man who was chosen by the wisest king, in the wisest times, among the most intellectual people in the world, from the wisest of their philosophers, to direct the education of a prince who afterwards subdued the world, must have had no ordinary powers. If this argument has almost the pith of an epigram, the fault is in those who compel us to employ it.

But paulo minora canamus—let us return to our reviewer, whom we left censuring the present worn-out engines of educa-

¹ The very error of occasional logomachies, whilst it attaches rather to the times than to the philosopher, supplies very desirable trials of acuteness, precision, and diligence. Are not many of the realities of law and policy, and some of the distinctions which are attempted to be set up in religion, equally laborious triflings?

tion. Now, allowing the historians and philosophers of Greece and Rome to be as deserving of being studied as we believe them to be, the reviewer may yet take the ground, that the attaining to the matter of what they have written is rendered unnecessarily laborious by its being conveyed to us in a foreign language. We will allow the weight of this argument, when we are convinced on the one hand, that hard intellectual labor is not a beneficial discipline, especially to those who in after life will lie but too softly in the lap of ease; and on the other, that a sufficient portion of time may not be spared, from early childhood, to the period when it is expedient to enter on the business of life, for acquiring the wisdom of Greece and Rome, without neglecting any pursuits which are likely to benefit the mind.

Neither in truth are we much moved by the objection that many volumes of our mother tongue might be read in a less period than is occupied in mastering a few crabbed authors of Greece and Rome. When we remember that human nature, at least to a very great extent, is the same in a Greek, a Roman, and an Englishman, we cannot be persuaded, that to make ourselves acquainted with the desires and interests of man in one nation is not, in a great measure, to make ourselves acquainted with his desires and interests in another. We cannot be persuaded, that a more hasty perusal of many histories, treatises, &c. is of the same intellectual value as a leisurely and diligent perusal of a few, when those few are acknowledged to be facile principes. Indeed, were we required to give a single rule to a young man entering on a course of study, we would bid him confine himself to a few great writers, but to meditate on them long and deeply.—*Nocturna versate manu, versate diurna.* In the words of the author of the *Pursuits of Literature*, we would exhort him to “dare to be ignorant;” convinced, that to get together a number of names by which we may support our own opinions and invalidate those of others is to reduce the investigation of truth to a question rather of personal authority, than of accurate observation and sound argument.

But granting our machinery,—Greek and Latin, arithmetic, algebra and mathematics,—to be, as the reviewer asserts, worn out, what fundamental engine does he propose to substitute in its place? On this point he leaves us rather in the dark, well knowing that it is more easy to point out diseases than to discover remedies. The change he would propose is however indicated by such sentences as the following:—“The age of Alfred was thus far an enlightened one—the soldier was trained in the exercises appropriate to his business; the churchman was taught Latin, because Latin was the language of his

trade: the business of society demands under George the Fourth what it demanded under Alfred; but its demands have not been obeyed." P. 151.

And would this radical reformer of education lead us back into the land of Egypt, into the house of bondage, where, as we are told by Herodotus, the sons of cooks were always made cooks, and the sons of heralds brought up as heralds? Would he have one set of boys taught only the business of fighting, to bless us with a corps of Mamelukes and a Prætorian guard? another, only the business of pleading, to perpetuate the felicities of Chancery suits, and the minor happiness of being liable to a six-and-eightpenny interference on each action, and at every moment of our lives? Is this the uncompromising enemy of monopolies, the sworn foe to every thing exclusive? Truly we are not so in love with the business of the army or of the law, or indeed with any other business directed only to one object in life, as to wish this wisdom of our forefathers to be revived. The subject has been so ably handled by the reviewer of Mr. Edgeworth's *Essays on Professional Education*, in the twelfth number of the *Quarterly*, that, unless the Westminster reformer has yet more to say than he has thought it necessary to produce, we must acquiesce in the present system of education in default of a better, although it entail on our posterity such "perilous shots from elder guns," as Shakspeare somewhere calls the sharp and harmless poppings of arguments as pert and weak as the following: "If our institutions educate lawyers and merchants, and physicians and statesmen, they teach them what they teach to churchmen, Ovid and Catullus, Homer and drinking, driving curricles or stage-coaches, and rowing boats." P. 152. To be a well-favored man, says another learned Theban, is the gift of fortune; but to write and read comes by nature. We had imagined coaching and boating, &c. *συνοικισσθαι τῷ γένει ἡμῶν*, to be generic qualities, and to need no teaching!—Again, "When we shall become as wise as Sparta, our universal youth will not be employed seventeen years in learning the languages of Greece and Rome." P. 154. Happy days! when our universal youth shall read Jeremy Bentham, that Catholic writer, *ab ovo usque ad mala*.—Again: "Were it not for mothers' and nurses, it is tolera-

It is not more true in physics than in morals, that action and re-action are equal. The exaggeration of one party has always a tendency to produce extenuation in another. That we may not in the present instance fall into an error so adverse to sound reasoning and right practice, let us candidly own, that it would be a great improvement in the system of our school discipline if a little more English reading were required. If boys, according

By certain that we should possess as little language as an ourang-outang." Page 159. What wonderful women must the mothers and nurses of Mr. Pitt and Mr. Canning have been! and how extraordinary that those great orators did not forget their mother's tongue amongst the barbarisms of Eton!

Ab, happy hills! Ab, pleasing shades!
Ab, fields beloved in vain!

as an ourang-outang most kakophoniously expresses it Again: "We hope the Dean of Westminster will please to tell us how much he teaches or knows of Anglo-Saxon, Anglo-Norman, Celtic, French, Italian, Danish, Low-Dutch, besides Bengalee, German, and Ashantee, and that he will inform us how many English words come straightway to us from Greek or Latin." Page 161. Doubtless the Dean of Westminster could inform the reviewer respecting the derivation of such words and phrases as these, impertinent absurdity—ephemeral trophies—evanescent reputation, &c. &c. Again: "Doubtless it (classical learning) will instruct him how to christen Hunt's blacking and Rowland's Macassar oil in beathen." Page 160. It would certainly supply him with a denomination for the wit of the Westminster Review; something probably about Bomolochy, the derivation of which word we recommend to the reviewer's serious attention.

But allowing such jests to be as witty as they are intended to be, let us in "utilitarian sadness," as the reviewer rather Bentham-

to their age, were obliged we will not say to read, for that they might do *καταδύσας δια βίου*, but to be *examined* every day in a certain portion of Sir Walter Scott's delightful little volumes on Scottish History, Mrs. Markham's Conversations on English History, Hill's Essays on Greece, Watts's Scripture History, or Paley's Evidences of Natural Religion—we should not even object to Mrs. Marcett's Chemistry or Mr. Mitchell's Natural Philosophy,—we think that a habit of thinking and expressing themselves in their own language, with a taste for reading and acquiring information, might be cultivated even in those whom inferior abilities prevent from succeeding in more difficult studies. When we consider how many young men, from a distaste to morally intellectual habits (if I may be allowed the expression), sink into mere sensualists, and, afterwards having the command of large fortunes, become centres, each in his own little system, of extravagance, vice, and misery, we shall be inclined to judge the importance of this part of discipline hardly capable of being over-estimated. If it could be shown that such an employment, of at least half an hour in each day, is incompatible with the acquisition of two languages and of a fair portion of mathematical knowledge, I should not hesitate for a moment to conclude it expedient to sacrifice one language for the attainment of an object so important. But I am convinced that this sacrifice is not necessary, at least if we will keep Cicero's great rule of *evadendi res obscuras atque difficiles easdemque non necessarias steady in view*. I mean, if we will be careful to avoid making grammar more difficult and discouraging than is necessary, nor spend too much time in proving that the axiom, *Poeta nascitur non fit*, has some foundation.

ically expresses it, return to the argument, and see what further "engine" he would use in aid of his Egyptian machinery. "A language," says the reviewer, "that can be read is, nevertheless, worth something: but a language that can be spoken as well as read, has at least one value more. If a language which we want every day as a means of intercourse is a desirable acquisition, a language which includes a thousand authors ought also to be more valuable than the one which contains a hundred." Surely the reviewer is forgetting the possibility of the hundred authors being all Dutchmen, great poets, and each of their poems, as Smollett words it, as big as dic-cheese; whilst the thousand might not be more voluminous than the poetry of Gray or Goldsmith. He ought to have provided for so puzzling a case, and settled his table of weights as well as of numbers. Quintilian is clearly of our opinion; for though he speaks in praise of the numerous oratio, i. e. the writing a great number of orations, he by no means neglects the gravitas orationis, or taking care that each oration be of considerable size. That this must be his meaning, will be evident to whoever bears in mind that *ceteris paribus*, the size of an oration will be, physice, as its weight. But let us return to the argument. "Does the man exist, who, if he were freed from the mystery, the cant, and the fallacy of the system, would not prefer a mastery of the German to the Greek, or the French to the Latin?" Page 164.

Now, if it had not been for a second Canon of criticism, which estimates the value of a language by the ratio of its present utility as an instrument of war, love, and commerce, (for we are making love to half the females of the globe, war with half the males, and bargains with the whole,) this question of superiority might yet have remained undecided, so far as the Latin and French languages are concerned. Certainly, a very considerable body of Fathers, Schoolmen, and Chroniclers, not to mention lawyers and physicians, could have been marched to the aid of the Latin. And if weight might be allowed to enter into the account (and to have excluded it would have been not only gross partiality, but a sad neglect of many time-honored metaphors), there cannot be a doubt that the Gallic chivalry would have given way before the staunch and heavy-armed legion. But as the second Canon can hardly be evaded, even by urging the quantity of good Latin spoken in Edinburgh and Poland, it is useless to contend longer in defence of the language of Rome. In behalf of the language of Homer, it may indeed be urged, that as the latter Canon is clearly incapable of being brought to bear against it, since "war, love, and trade," have not yet ceased to be carried on in that language with considerable vivacity; and as there is a fair chance of the

biblical losses of Alexandria being replaced by the cacœthes of the modern Hellenists, the question of Greek versus German may still lie open, at least till the next Leipsic Fair. Much may be hoped from the loquacity and esuriency of the Athenian rhetoricians, in spite of the long-winded voluminousness of German commentators, and we may yet hope to see our critics, even judging by tale and weight, assign the prize to the Greeks.

Indeed the Reviewer himself seems to have some touch of feeling towards the friends of his youth, and spite of all fundamental objections, drops iron tears over the necessity of abandoning them. "Demosthenes and Cicero: these are impressive terms. Isocrates: we will say nothing of him. But there were great men in those days; and we hope there have been great men in the present degenerate ones. There were great orators when there were great objects, great minds, great labors, with, what is not unimportant, hearers. Are we to believe that, if the names of Cicero and Demosthenes had never been heard, there would not be, or might not have been, or will not be, great orators now? Of the two great ends of oratory, to convince the reason and to influence the feelings, what are the debts due to the former orators? It is from his own soul that man speaks oratory, as from his own soul he writes poetry. He to whom nature has given voice, fluency, and grace, and to whom practice has given language—his own language, not the language of Greece and Rome—he to whom nature has granted the logical faculty, the mind that grasps rapidly and certainly the most remote as the nearest relations, which analyses, arranges, and condenses, and he to whom the study, not of two dead languages, but of all the infinite knowledge of modern days, has furnished materials, that man is the orator." Page 161. Why this is the most admirable fooling!

"It is from his own soul that man writes poetry." Yes, such poetry as Captain M'Intyre ascribes to the Celtic bard of the bare-armed Fenians. Such poetry as Burns or Bloomfield would have written if they had never read a line of Dryden and Pope. Such poetry as Pope and Dryden would have written, if they had never read Homer and Virgil, (albeit, the Reviewer calls them "stumbling-blocks and trammels, enchaining free and bold spirits, and producing an endless herd of insipid imitators.") Page 161. Which imitators would, by the way, have been equally insipid, whether they had been imitators or not; as insipid, if they had written original radical articles, though not so harmless, as they are "with their Jupiters, and Venuses, and Daphnes."

"It is from his own soul that man speaks oratory!" What a useless process then does Cicero recommend to the tyro in oratory, in those magnificent passages in his *De Oratore*! beginning, "*Sed*

nimirum majus est hoc quiddam, quam homines opinantur et pluribus ex artibus studiisque collectum." De Oratore, lib. i. sect. 5 & 6.

"He to whom nature has given voice, fluency, and grace !" Yes, and he to whom nature has given a fiddle, and has not forgotten to teach him the art of playing on it, for this may chance to be of use, will make it discourse most eloquent music. What nonsense have the metaphysicians talked about the *tabula rasa* of the uncultivated mind ! and how mistaken was the modesty of that Hibernian, who even went so far as to doubt his power of playing on a fiddle, because, forsooth, he had never tried ! "With the voice, fluency, and grace of nature," he might at least have struck up some vocal *Dolce Conento*, if he were so weakly modest as to doubt his power of fiddling.

"He to whom nature has given the logical faculty, the mind that grasps rapidly and certainly the most remote as the nearest relations, which analyses, arranges, and condenses !" Why this is what a Frenchman might call "*a très bon naturel*," or, as old Aristotle expressed it some ages ago, (for there is nothing new under the sun,) this is *τελεια και ἀληθινή εὐφυΐα*. In fact, had this child of nature been only accommodated with the addition of a wig and a lawyer's gown, he would have stalked forth like Minerva, a ready-built pleader, and might have snapped his fingers at Jeremy Bentham's logic, and answered all his subtleties in the words of Pindar :

σοφος ὁ πολ-
λα εἰδως φυα
Μαθοντας δε λαβροι
Παγγλωσια, κορακες ὡς
'Ακραντα γαρυμεν
Διος προς ὀρνιχα θειον.

But stay a moment—after all this flourish about nature, a little corner, a very little one, is left for discipline, "and he to whom the study," &c. The leg of mutton *may* be put into the soup which was to have been made from a decoction of stones—because it will do no *harm*. Truly, many will be of the same opinion. But let them beware of supposing that this *soupe au naturel* would admit of the leg of any other animal. Mutton, indeed, may do no harm—but beef !—mention it not ! "Not the study of two dead languages, but of all the infinite knowledge of modern days." "All an infinite," is somewhat beyond ordinary metaphysics to comprehend ; for, with the ancient school-men, many will be satisfied with half, some indeed, even with a quarter of an "infinite." But these are evidently not men of a comprehensive mind. Knowledge of things in general—general knowledge—(as an Oxonian very

properly made answer to the silly question of a wise woman who asked him what was studied in Oxford,) is this "all the infinite knowlege?"

Be this as it may, we are to rest satisfied with the imitating the oratory of Sir James Scarlet and of Mr. Brougham (we speak of them in all honor), when we might take Demosthenes and Cicero for our models, herein acting on the firmly-established and well-known axiom, always to take the worse of two things. Nay, we are to exercise ourselves in repeating their speeches, in opposition to another absurd remark of Cicero:—

Sed post animadverti, hoc esse in hoc vitii, quod ea verba quæ maxime cujusque rei propria quæque essent ornatissima atque optima, occupasset aut Ennius, si ad ejus versus me exercerem, aut Gracchus, si ejus orationem mihi forte proposuissem: ita, si iisdem verbis uterer, nihil prodesse: si aliis, etiam obesse, cum minus idoneis uti consuescerem. Postea mihi placuit eoque sum usus adolescens, ut summorum oratorum Græcas orationes explicarem: quibus lectis hoc assequer, ut, cum ea, quæ legerem Græce, Latine redderem, non solum optimis verbis uterer, et tamen usitatis, sed etiam exprimerem quædam verba imitando: quæ nova nostris essent dummodo essent idonea. De Oratore, lib. i, sect. 34.

Having settled the literary education of his Utopia, the Reviewer next provides for the sciences. "If the present world of Europe is a world of literature, it is also a world of science and art. Whatever remoter debts it may have to the former, it is to the two latter that it looks immediately for its comforts, all its wealth, and all its power. Directly and immediately we have risen to the station which we occupy not by literature, not by the knowlege of extinct languages, but by the sciences of politics, of law, of public economy, of commerce, of mathematics; by astronomy, by chemistry, by mechanics, by natural history. It is by these that we are destined to rise yet higher. These constitute the business of society, and in these ought we to seek for the objects of education." (p. 151.) That is, our universal youth should cease to waste their time in learning arithmetic, Euclid, algebra, grammar, logic, rhetoric, morals, &c., and should be early instructed in the art of swallowing whole treatises on the mechanique celeste and political economy, with a few digests of law and a small number of universal cambists as a wholesome condiment. If this be not the Reviewer's meaning, it is too deep for an ordinary apprehension. It would be an unchristian supposition, to think that he requires his pupil to obtain the knowlege taught by the system he proposes, as well as by that now established, in the same space of time. The fundamental engine would certainly be worn out in the attempt. Indeed, if it were possible to unite the two, it is

clear that the objects of the present system must be taught before his addenda, because it would be useless to add the foundations after the roof was laid. This would reduce his objections to a mere question of time, altogether unworthy of a Philosopher who is changing the fundamental machinery of education, not merely finding fault with the drivers or oiling the wheels. In truth the Reviewer has, what appears to him at least, a nobler object. He proposes neither more nor less than forthwith to make all our boys acquainted with the business of the world—to start where the present system ends—in a word, to make practical men in pin-a-fores.

Now, with all due respect for the Reviewer and his plans, he may be asked whether it is ever quite safe to descend into the arena before we have had thorough practice in the school. The objectors to philological pursuits talk of the education of young men in the higher ranks of society, as if it were necessary to hurry them through a course of study confined to the mere business of life, that they may be enabled to get their bread at an early age; and, on the other hand, they do not attach a sufficient importance to the danger which must attend a premature attempt to instruct them in the great interests of life. Let us see how this could be managed in reference to the political sciences. Can the student enter on inquiries, which in some degree constitute him a judge of the institutions, laws, and policy of his country, with any well-founded hope of benefit to himself and others, or without just fear of harm to both, before his mind has been well exercised in the labor of acute and diligent investigation; before he has acquired a power of detecting the fallacies of the sophist, and the arts of the rhetorician; before history has taught him to be as much on his guard against the enthusiasm of innovation, as against the prejudice of bigotry; in a word, before his powers have been cultivated by a wide range of literature? The very eagerness with which he will listen to political speculations, is not the least sure test of his unfitness for them, and of the probability that the impassioned hearer will become the vehement disputer and the reckless agitator in matters which ought to be handled with the greatest moderation. Only let the *effrænatī sibi quæ præfidentēs* be well exercised in the *gyrus rationis et doctrinæ*, which our present discipline affords; let them inform their minds on the history and philosophy, the logic and the rhetoric, the oratory and the poetry, of Greece and Rome, and they will be prepared for the study of politics, and for the application of that science to the institutions, laws, and policy, of their own country. Where so much is at stake, it may be questioned whether the apathy of ignorance is not even less to be deprecated, at least in a country which stands in need of no political hurricane to clear its atmosphere, than the feverish excitement of premature knowledge—

whether, in short, the brilliant display of political talents in a youthful senator, is not one of the very worst omens for the sound policy of his country. The words of Cicero are a *fortiore* applicable to a greater evil than he was contemplating when he wrote them. *Ante implicatur aliquo certo genere cursuque vivendi, quam potuit, quid optimum esset, judicare.*

I will not enlarge on a topic of very inferior importance to that of the expediency of what is called a classical education; but surely there must be little liberal curiosity in that mind, which, having the means of making itself familiarly acquainted with the opinions, feelings, and circumstances, in a word, with the literature of two great people long descended into the grave of nations, undervalues this wondrous privilege. Nor can we form a higher opinion of his judgment or taste, who denies the essential importance of the lessons they have left us to the feelings and interests of human life in all ages, or asserts that these are not conveyed in a style of such delicacy and force, as to afford a model in almost every kind of composition.

The danger to be dreaded, is not that we devote ourselves too ardently to classical studies, but that we stop short in the portal of learning, and rest satisfied with a school-boy scholarship *vix hac ætate dignum*. Even this danger is daily decreasing, as we press forward, in the train of a Blomfield and a Copleston, a Mitchell and a Whately, to seize the manner and the matter of the ancient writers; to transfuse the spirit of their impassioned poetry and nervous prose into our compositions; to catch something of that elevation of feeling and that force of intellect, which made their very errors splendid faults. Though it is no easy matter (the difficulty, however, is favorable to the cultivation of acuteness and diligence) to disjunct their thoughts and feelings from the solid flood of ignorance, which the destruction of so many valuable sources of information has poured on their works, farther increased by the heavy matter accumulated through ages of dictionary makers and commentators, yet the labor of the diligent student will at length effect its object. He will again walk in their deserted streets, and almost imagine that he hears the busy hum of life around him; he will be a spectator at their gymnasia and their theatres, at their forum and their temples; will listen to their orators, senators, and philosophers; will even be present at their familiar and domestic meetings, and pierce into the penetralia of their solitary hours.

*Per terram antiqua Diis caligine mersam
Tendere et umbrarum sedes penetrare sepultas
Fert animus. Quisnam mihi dux Cylenius altum
Pandat iter?*

If we would find such a guide, we must seek the Hermes of the

ancients in a genuine philology, and propitiate him with the sacrifice of a hecatomb of idle prejudices against the study of words.

The wisest people of antiquity were indeed fully aware of the importance of philology, and indicated by their use of the word *λόγος*, to signify the faculty of reason, a process of reasoning; and a sound expressing each step in that process, that they esteemed words not so unimportant as many of our realists would lead us to consider them—indeed, that they conceived themselves to ascend from the first lisping of childhood, through a process of reasoning founded on language to the full development of the power of thought. They were weak enough to believe, that to acquire well-defined signs of ideas was to obtain definite ideas, and to obtain definite ideas was to obtain the fittest instruments of reasoning. They were not ignorant that these must be employed on the realities of things, or that their products will be visionary and unreal. For, let us remember, it was not the age of a genuine philology, which was whirled in ideal vortices, labored for imaginary wealth, and had its peace of mind disturbed by airy daggers.

Somnia, quæ vitæ rationes vertere possunt
Fortunasque tuas omneis turbare timore.

Even these abuses of words make the use of philology, in the true sense of that most abused term, more evident. For the cure must often be derived, not immediately from the realities of life, but from a keen and laborious examination of these winged nothings. The self-deceived enchanter cannot be led forth at once into the light of day, but some time and trouble must be expended in showing him that his magic circle is but a chalked line, his fumigation but smoke, and his spectres only its varying shadow passing over the nearest wall.

If the question of the importance of a genuine philology, and it is not of that possessed by the *auceps syllabarum* that we are speaking, be decided by the evidence of facts, it would be easy to show, not only that the most imaginative poets, but also that the most acute and comprehensive-minded philosophers, must have labored sooner or later with diligence and acuteness in this study. The process of nature points out that it should be done early, and it was left to modern philosophy to discover that the end must precede the means. There is, indeed, a spurious kind of philology, which employs itself about trifling questions, and produces bombast and frigidity of style and loose and confused reasoning. Even as a means of guarding against this abuse, true philology would deserve to be cultivated.

But we are oblivious that the Reviewer will have none of these things, but will have his universal youth proceed, as above set forth, to swallow cotton-factories, town-halls, colleges of physicians, and houses of commons and lords (churches and steeple and all the

good people being only omitted as unwholesome food), as Hercules killed Boas, in its cradle. But who is to teach all this? Whether it may not be desirable to have one of those respectable quadrupeds from the Nile, or of those no less respectable feathered bipeds from the deserts of Africa, to give half a dozen lectures on the best means of digesting the above Egyptian discipline of Babylonian philology and Laputan science, may be a matter for earnest consideration. Certainly the present race of instructors, though in the Isle of Wight they are uncivilly likened to cormorants, can exhibit no such doses to their patients.

But stay—there is no need of such help—the Reviewer, *utrinque paratus—teres atque rotundus*—is ready with a better expedient. “But if there be any thing of which they (the clergy) are not the best teachers, if there be any knowledge which is better known by others than by them, we desire but the same right (amiable request! and complied with even before it was asked) of choosing our preceptors among such persons. He who knows best, will, other circumstances being the same, form the best teacher, as experience shows every day, as common sense would have taught us without it. We choose our professors of medicine from physicians, and place our sons, intended for law, under special pleaders; just as we bind an embryo Stultz apprentice to some hero of the needle. But we choose a clergyman to give our sons education, that abstract, unintelligible thing called education; and knowing nothing, nothing therefore can he or does he teach. If we had sense enough to select as a tutor of our child a lawyer, he might learn law; if a merchant, accounts; in any one case he would be worth something to society. He would be so, though his tutor was a carpenter. (These are the words of the Reviewer ironing himself, as Mrs. Malaprop would say.) Now he is taught Greek and Latin, and learns horse-racing.” P. 171. Oh, most impotent conclusion!

As to the plan of employing merchants in teaching our universal youth, the Reviewer on further consideration will perhaps judge this part of his system to be inexpedient. His other suggestion must not be so slightly rejected. The truth, if it must be told, is this: There are in the law,—no, not in the law but in the Temple and Lincoln’s Inn,—a pretty considerable number of young men who have little more to do than to mend pens, draw caricatures, and write sonnets or radical reviews, as the muse may chance to inspire. These idlers very logically conclude, that the fact of their having been proved unfit for their own profession establishes their fitness for another. They therefore propose, always for a consideration, as honest Trapboys expresses it, to devote whatever smattering of law they have acquired from the air and localities of Chancery Lane to the aid, or rather to the exclusion, of our unpaid

magistracy. And, in further consideration of their being at present altogether unemployed, they will not object to apply whatever knowledge of chemistry and botany they may have learned from their fair partners, from Mr. Brande and from the tracts of the Useful Society, to the education of a select number of young gentlemen. Their greatest qualification for the afore-mentioned offices of magistrates and tutors being, as the Reviewer pretty clearly intimates, a decided superiority as practical men, and men acquainted with the business of the world.

It would be cruel to suggest, that men without practice are not the most likely to be practical men, or that we cannot understand how men without any thing to do should be acquainted with the business of the world. Far from making such unpleasant observations, we will earnestly recommend their qualifications for the offices they propose to assume to the notice of a discerning public. It is too evident to require a moment's hesitation, that the wealth and influence of our country gentlemen, the pledge they have in the well-being of the state, and the probability of their being better employed and more respected if freed from their magisterial duties; and on the other hand, the plodding diligence of schoolmasters so likely to cramp the genius of youth, their practice in the business of tuition so suited to have made them prejudiced against modern improvements—do all tend to unfit these men for their present situations; whilst the known practical and business-like character of every briefless lawyer, patientless surgeon, and ledgerless man of business, at least as evidently fits him for this as for any other employment. In consideration of our having in such good faith recommended their qualifications, we will assume the privilege of acknowledged friends, and earnestly advise “these candidates for something to do” to be sparing of their attacks on the magistrates and tutors, who at present hold their situations only in commendam, lest an ill-natured world should suspect them of being influenced by motives altogether unworthy of persons who have the good of their country at heart.

En attendant the preparation of their lectures on the civil and military business of life, we will return to the flowery, sometimes thorny, tracts of philology; having a reasonable suspicion that the paths, in which men like Mr. Canning have exercised their young strength and culled thoughts and words of power and sweetness, “The applause of listening senates to command,” and, which is more to our present purpose, selected those heart-biting sarcasms with which they have chastised folly and presumption, are not to be deserted altogether. The business of life may require our future practical men to spend some time in the chamber of the special pleader, in the lecture-room of the anatomist, or in the bureau of

the minister. Nor can we conceive a discipline which will supersede the necessity of such training. But if the mind have previously acquired at our schools and universities acuteness and diligence, minute attention and clear arrangement; if it bring to the discussion of the interests of our own day, a knowledge of the great moral causes and effects which are confined to no time or country, and a spirit of inquiry not surfeited with terms before it can judge of things—if it be aware that it has something yet to learn, and does not enter on life with the pert presumption of believing itself already versed in all business and in every thing practical—if, instead of having learned to ridicule the monastic system and despise its ancestors, it is, in the words of the antiquary, “touched with some strain of a better spirit than belongs to these giddy-paced times, reveres its elders, and has a pretty notion of the classics,” truly we think our state will be far more gracious and are sure that it will be more safe. For if there be a state of society in which there is good reason for feeling insecure of all the blessings of civilized life, it is when education is turned into a hot-bed of speculation on the leading interests of the day, and the business of life converted into a series of experiments, to illustrate the theories of the lecture-room. Such a system of education would indeed grind to powder the institutions of a country though they were built of adamant.

Whether I have succeeded in proving the principles of inflammability and acidity, of which the article we have examined is altogether composed, to produce, like the hydrogen and oxygen of the chemist, a most aqueous result, the reader will judge for himself. Perhaps he will think it a waste of time and attention to have given such nonsense a serious thought. And in this opinion he would be correct, if there were less truth in an old proverb, that dropping water wears the solid stone; and less certainty of the fact, that there is at this time a systematic effort to wear away the very foundations of society by the repetition of attacks which have all the strength that numbers and artifice can give to weak arguments, and have the advantage of being supported by the prejudices, the ignorance, and the passions of men. There is a simultaneous effort made by the enemies of good order, and by those who consider no order to be good at the head of which they themselves are not placed, to throw discredit on the education of the higher orders, and to infer their unfitness for their high duties in the magistracy and senate; to persuade the people, and especially that most important portion of it which is the connecting link between the higher and the lower orders, that its instructors teach much that is useless and pernicious, and little which is useful or valuable; in a word, to assume to themselves the credit of being the possessors and dispensers of all that is worth attaining in knowledge or in practice.

Who can be ignorant of the arts by which it is attempted to transfer the distribution of justice, and the opportunities of usefulness and respectability arising from such duties, from the hands of those whose exclusion or dishonor infers the greatest danger to good order, to the hands of men who, from the very nature of their appointment, would be the fittest engines of democracy or tyranny, but could have as little interest as they would possess means of forwarding the comfort of the lower orders, exhibiting the respectability of the higher, and of proving both these to be inseparably connected? Who can be ignorant that an attempt is systematically made to transfer the confidence of the public, from a school of moral discipline, which lays the foundations of knowledge deep in the wisdom of past ages, to men, who either speak with vulgar scorn of the works of antiquity of which they neither understand the sense nor feel the beauty; or, if they attempt to teach them at all, would effect it by a parrot-like memory of words, utterly contemptible to the philosopher who endeavors to trace in language the history of the circumstances, habits, and opinions of men? In like manner they would transfer the fame of scientific education from a school, which raises the philosophy of nature on the basis of mathematical demonstration, to men, who would teach the circle of the sciences by a rapid course of popular lectures. It would indeed be comparatively of little consequence if these theories of education related only to those who must in the end be convinced of their futility. But the mischief extends farther, and in a direction much more dangerous.

Whether the lower orders in this country are or are not needing a higher, I will not say a better education, than has yet been afforded them by our national schools, (in which, let it be remembered, the clergy have borne all the labor and no inconsiderable portion of the expense,) is not the question. A society has been established which will force a higher degree of education on the lower orders, without waiting, as in common fairness it should have done, to see whether those who have hitherto had all the labor, will or will not proceed in their work. It is a question which the friends of good order have to decide, and to decide quickly, whether this shall be allowed, whether education shall for the future be made an engine of faction—of division between the lower and the higher orders—or whether those who have hitherto been its conscientious and laborious promoters shall resume the place which has been so rudely wrested from them. To say that men educated in our universities have not the power to teach physical science as well as moral wisdom, or, to say that they are not ready, nay, forward to teach all that comes not of evil, is an assertion beneath contempt. But we are now called on to do more, to teach more than we think is yet wholesome intellectual food, lest

it be taught by others who will convert it into rank poison. The axe is at the root of society, but we have it yet in our power to take it out of the hands of those who are using it to their and our destruction. Why should we wait either till it is too late, or till our task become more difficult? Surely we need not wait longer to be convinced of the object of men who decry our universities, our clergy, and our magistrates.

In the last number of the *Edinburgh Review*, the various objects proposed by the Society for the Diffusion of Useful Knowledge, with its means of accomplishing them, are systematically set forth. Details respecting the formation of the Society, the appointment of its Committee, and the establishment of Auxiliary Committees, are followed by a statement of its primary object,—namely, to unite the talents and labors of men of science and learning in every part of the kingdom in forming a library of useful knowledge, offering to their exertions a more liberal recompense than the cupidity of booksellers will allow. The several parts of this plan are next clearly defined—the formation of a library of Science—of History and Biography—of Entertaining Knowledge—of Books for the Instruction of Children—and lastly, the circulation of two Periodical works, an Almanack, and a Newspaper, which is thus announced. “There has lately been a very important announcement in London, of a literary design, which we ought not to close this article without mentioning. It is a Weekly Journal of the Sciences and Letters, for the purpose of diffusing information and promoting discussions on the novelties arising from day to day, in all departments of learning.”—*Edinburgh Review*, No. 93, page 133.

We fully agree with the reviewer in his estimate of the importance of the above machinery. It is an organon scientiarum which has not been equalled in power by any of “the united operations for accomplishing a literary object,” on record; not even by “the celebrated Encyclopedias of France.” Absit omen! Absit fœdum et horrendum omen!! Yet there is but too much that reminds us of that great organ of destruction, in the spirit of the very first number of the Weekly Journal announced by the reviewer. Allowing for differences of national character, of the state of public opinion, and of the circumstances of the times, we doubt whether any of the French Encyclopedists would have ventured beyond the following contemptuous expressions. We will transcribe them from the first number of the “*Verulam*,” printing in italics the words in which the spirit of the passage is contained.

“After the expression of our approbation of Mr. Harvey’s talents, perhaps he will bear to be told of his faults. An artist should possess a great knowledge of Natural History, and indeed of every science and art illustrated or embellished by his pencil. The

thirteenth fable is entitled 'The Envious Glow-worm,' and the cut exhibits two of these insects entirely surrounded by rays of light proceeding from their bodies. Now naturalists declare that the *luminous rays proceed only from the tail or lower part of the abdomen*, a point which, consequently, the artist has entirely overlooked. We find the same error more distinctly marked in the cut of fable 39, 'The Philosopher and the Glow-worm.' We wish he had had the boldness to correct an error in the tail-piece of the 92nd fable, which is not only universal among painters, but has existed ever since the revival of Art, namely, in the figure of Him who said 'A prophet lacketh not honor, save in his own country;' we mean *the glory or luminous rays that are supposed to proceed from the head of our Saviour*. Had such rays really appeared when he was on earth, perhaps there might have been no need for the above reflection; at all events, it would never have been said of Him, that 'He was a man of sorrows and acquainted with grief,' and that 'His countenance was more marred than that of any other man.'

In something of the same spirit is the following observation. "Trans-figuration is change of figure; and we confess that of Jesus Christ is so much changed since we had the pleasure of seeing him in the works of Raphael and the Caracci, that we really should not have known him."

The last two pages of the "Verulam" contain advertisements of books, &c. We will ask the conductors of this Journal, how it happens that the *only work in Theology* which is advertised, should be the ravings of Emanuel Swedenborg, and that it should find itself in the following connection with other advertisements.

PHILOSOPHICAL WORKS.

1.—AN HISTORICAL AND CRITICAL DICTIONARY, selected and abridged from the great Work of Bayle. With an original life of the author. In 4 vols. small 8vo., price 32s. in boards. "Four more instructive and amusing volumes have not come from the press for many years, than this abridgment of Bayle. We recommend it to every inquiring and thinking person, who cannot obtain or cannot peruse the original. In it he will have materials for thought, matter for argument, and wisdom for guidance for years and years."—*Atlas*.

2.—A PHILOSOPHICAL DICTIONARY. Translated from the French of Voltaire. In 6 vols. 8vo. with a head of Voltaire, and a vignette after Stothard, price 50s. boards.

"It is remarkable, that the only work of Voltaire which has not heretofore found an English translator, is the Philosophical Dictionary. It seems superfluous to descant on a book whose merits have been so long decided.—There is, probably, no work of equal size in any language which has been so frequently reprinted in so short a space of time. Its wit, its variety, the simplicity of its style, and its extensive and curious research, present a combination of attractions, which cannot fail to procure a lasting popularity. The translation is executed with accuracy and spirit."—*Westminster Review*.

3.—**OUTLINE OF A NEW SYSTEM OF LOGIC**, with a Critical Examination of Dr. Whateley's 'Elements of Logic.' By George Bentham, Esq. In 8vo. price 10s. 6d. in boards.

DOCTRINES OF THE NEW JERUSALEM CHURCH. The four leading doctrines of the New Church (signified in Rev. ch. xxi, by the new Jerusalem); being those respecting the Lord, his divine and human natures, and the divine Trinity; the sacred Scripture; Faith, and Life. Translated from the Latin of Emanuel Swedenborg. With an Introductory Preface, and an Account of the Author. In one vol. 8vo. price 7s. boards, or on royal paper, 12s. extra boards.

This work, the subjects of which are confessedly of the first importance, is recommended to the attention of the Public, as presenting, within a moderate compass, a complete view of the doctrinal system of its celebrated author; while the preface gives a just account of the author himself. Respecting Swedenborg and his writings, the most calumnious misrepresentations are continually disseminated; though, by all who are well acquainted with them, they are held in the highest estimation. In this publication the candid inquirer after truth will find the means of judging for himself.

Each subject contained in the above volume may be had separately, viz.—Respecting the Lord, 2s. 6d. or on royal paper, 4s.; on the Sacred Scripture, 2s. 6d., or on royal paper, 4s.; on Life, 1s. 6d., or on royal paper, 2s. 6d.; on Faith, 1s., or on royal paper, 1s. 6d.

The Nature of the Intercourse between the Soul and the Body, which is supposed to be effected either by Physical Influx or by Spiritual Influx, or by pre-established Harmony. Translated from the Latin of Emanuel Swedenborg. With a preface, addressed to the Universities of Great Britain, by the late Rev. Thomas Hartley, A. M., Rector of Winwick, Northamptonshire. 1s. 6d., or on royal paper, 2s. 6d.

Are we to suppose the writer or writers of the above extracts to be ignorant of the truth of Paley's excellent observation: "In proportion as these noxious principles take hold of the imagination, they infatuate the judgment; for trains of ludicrous associations adhering to every sentiment and mention of religion, render the mind indisposed to receive either conviction from its evidence, or impression from its authority. And this effect being exerted on the sensitive part of our frame, is altogether independent of argument, proof, or reason; is as formidable to a true religion, as to a false one; to a well-grounded faith, as to a chimerical mythology, or a fabulous tradition."

The Society for the diffusion of Useful Knowledge has published only one work in its biographical and historical division, in which the Intrigue, Pride, Avarice, Sensuality, and Revenge of an Ecclesiastic are depicted in glowing colors.¹ We trust the

¹ After exhibiting a minute picture of Wolsey's luxury and arrogance, we have the following reflections. "While condemning as frivolous and pompous this ostentatious array, the benevolent mind reverts with pleasure to one circumstance, which presents the character of Wolsey in a more favorable aspect. It was not until after he had paid his early and private tribute of devotion at the shrine of Him who doth dispose and govern the hearts of princes, that Wolsey resorted to the business of that world, the

Society will not long permit this biographical sketch to remain the only one on its list. We trust it will hasten to hold up to the respect and love of its readers the characters of such men as Bishop Wilson and Bishop Heber. That it will depict with as minute a pencil, and with colors as vivid as have been employed in this portrait of the Cardinal, the virtues of those great and good Prelates. The primitive and paternal goodness of Bishop Wilson watching over the temporal and spiritual happiness of his Diocese, and exemplifying in his own conduct all the mild and steady virtues which he preached to others, will form a *useful* contrast to the vices of the proud Cardinal. The splendid talents, the deep devotion, and the utter abandonment of all selfish feeling, which led Bishop Heber to resign friends who loved him and whom he loved with no common affection, to leave wealth and honors, not in prospect but in actual possession, for the most arduous duties and an early grave, would offer a more instructive example than that of the luxurious and selfish priest, whose actions have been held up to our just contempt.

Let the Biographers of the Society select for their next sketch of clerical qualities the virtues of some churchman of ample private fortune and considerable personal influence, unconnected with church property or church patronage, devoting his talents, his wealth, and his time, to the great interests of humanity—encouraging charitable institutions by the most liberal subscriptions,—watching over them with the most sedulous diligence—and, in a word, forward in every work by which his fellow-creatures may be benefited. Let them exhibit him in private life giving a steady example, not of ascetic or fanatic piety, but of the virtues by which mankind are benefited and their Maker and Master best obeyed.

We trust the biographer of the Society will descend still lower in the scale of honor if not of usefulness—that he will select some

enjoyments and even the cares of which render such a preparatory service but too requisite. To attend the performance of the ordinary masses, merely, might have been deemed by the Cardinal a customary act of decorum, with which no head of a household could, with propriety, dispense. But Wolsey, not satisfied with this observance only, retired within his closet, and alone with his chaplain, a man of learning and of veracity, he went through his daily service; nor did he, according to the testimony of that person, retire to bed, however he might be oppressed with fatigue of body or anxiety of mind, without even one collect omitted, in his customary and prescribed devotions." The context which immediately follows, describes the revels and masks which the Cardinal prepared for the king's amusement.—*Life of Cardinal Wolsey*, page 13. Surely it is the duty of a teacher of useful knowledge to dissolve rather than to cement those false associations of the respectable and contemptible, which facts too often fix in the mind.

village pastor, who, after obtaining almost all the literary distinctions of his university, after filling all its most important offices, has retired to an obscure hamlet, which proves no rustic abode of innocence and happiness, but the very sink of profligacy and brutality. With the graphic power with which the biographer has described the vices of a luxurious court, he will find no difficulty in making a scene of low debauchery, violence and dishonesty present to our minds. May he be equally successful in describing the slow, but sure progress of reform effected by a humble curate—his talents, manners, and above all, the respectability of his character gradually rallying round him those, who have retained any thing that is right in feeling or correct in conduct—the slow, but sure, increase of their number, as kind expostulation and gentle or sharp reproofs do their work—soon the church no longer deserted—schools established and frequented and the benefits of a sound discipline (not that of science but of religion) making its way from the school-room to the cottage—at length, even the hoary sinner shamed out of committing crimes which his children have been taught to shun and condemn—that bitterest of all reproofs to the conscience of a parent. We will leave the biographer to fill up our sketch, assuring him that in every point it is taken from reality, and that, excepting superiority of talent, it will be found realised in no inconsiderable number of parishes in every part of the kingdom. The labors of men so useful to the community, and often so inadequately supported, surely have the highest claims to the notice and encouragement of a Society for the diffusion of Useful Knowledge.

But though we are desirous, both for the sake of utility and common justice, that the Society should put forth such wholesome contrasts to the example it has given of the vices of an ecclesiastic, we are no less anxious to see in its catalogue titles of some *Parallels in Biography*. Let us suggest the utility of a life of Mirabeau—a man of extraordinary talents and immense energy of mind—using his power over the passions of the lowest to the debasement, and eventually the destruction of the higher orders of his country—devoting his splendid oratory and all the weight of his character as a man of birth and education to that one object—dying from the effects of a reckless debauchery at the very moment, when, apprehending the downfall of his popularity, he was beginning to intrigue for the continuance of his power, by betraying those through whose support he had obtained it.

Nor would we have characters like that of La Fayette neglected by the society's biographer. We would wish to see a philosophical analysis of that man's mind, who born with fair talents and having obtained from education elegant manners, a respectable

portion of information, and a strict integrity of purpose, perverted all these blessings to the destruction of himself and others, by giving way to an enthusiasm, which ever produces an effect exactly opposite to what it intends, by acting on a belief that unmixed good can be secured in this world by any means, or that good of any kind or degree can be attained, except by means dictated by that sound sense, which respects not only the wisdom but the prejudices—not only the real but the supposed interests of men, and by so doing causes the latter to give way gradually, but surely, to the former.

The society may, with good effect, descend even lower in the objects of its moral anatomy. It will do well to lay bare the thoughts and feelings of that class of men, who, dissatisfied with the order of Providence, by which some are born to affluence and power as some to health and strength, and others to poverty and a humble station as others to disease and weakness, would attempt not a possible alleviation, but an impossible cure of the evils to which flesh is heir. Let the pen of the biographer describe the folly and wickedness of those, who foster the pinings of envy, the bitterness of hatred, the aspirations of vanity, in a word, all the turbulent motions of unfounded disappointment and objectless hope, till they burst forth with a force too strong to be repressed.

Will it be said that this is exaggeration?—that no such issue is contemplated, far less intended in this country? The answer is obvious—that neither was this issue contemplated nor intended by a single individual who wrote in the French Encyclopedia. When Bailly and Condorcet composed their scientific articles for that work, they no more thought of destroying the millions who fell in consequence of the Revolution, than they foresaw that one of them was to die by poison and the other on the scaffold in the course of the tragedy they were preparing. I will not believe any one so selfish as to answer “the world will last our time—let the danger be on our children’s heads—that, like the great Apostle of the Revolution, we shall be carried to our grave with the crown of vanity on our brow, secure that ‘the end is not yet.’” This is too heartless, too senseless for the feelings and thoughts of Englishmen, who ever look forward to handing down their blessings to their children’s children, and will not listen to the cold selfishness of living for themselves. Let us then look steadily to the consequences of our actions, whilst they may yet be averted.

Are those, who are doing all in their power to disprove the utility of the universities, the clergy, and the magistracy of this country, prepared to go the lengths to which this conduct will certainly lead them? Are they ready to witness the struggles of the French Revolution in this land? And—good God! for

what purpose? That the ministers of the king may make room for the oligarchy of the faction of a Duke of Orleans; that these in their turn may yield to the republicans of the Gironde; that these may give way to the anarchists of the Sections; that these may be choked in their own blood by the almost equally murderous Thermidoriens; that these may be feebly repressed by a weak Directory; and that the oceans of blood shed by them all may at length float into the harbor, where it would be, the red flag of tyranny to be hoisted as a sign to the nations.

In sober and utilitarian seriousness, can we hope to tread the very path of the French Revolution, and not arrive at the same end? Is good order, property, and life itself, no longer subject to the same dangers? Is man's nature changed? is the chain of moral consequences altogether broken? or is it now and ever true that *qui parti civium consulunt, partem negligunt, rem perniciosissimam in civitatem inducunt, seditionem atque discordiam*.

Will it be pretended that there is not in the *unguarded* expressions of the Verulam relating to our Saviour—in the *accidental* juxta position of the theology of Swedenburg and the scepticism of Voltaire—in the *coincidence* that the only piece of biography yet published by the society has for its object to hold up the vices of an ecclesiastic to indignation and contempt—and in the *casual* opportunity which is there taken to confound piety and hypocrisy—will it be pretended that in all these there is not a resemblance to the conduct of the French Encyclopedists at least sufficient to rouse *suspicion* and *vigilance*? Those, who would require stronger evidence, should remember that the daring atheism of the French mathematicians and the deism of their writers on metaphysics is not to be looked for in our times and country from any author who would not defeat his own object. Insidious attacks are the only ones which will not carry with them their own remedy, and which we cannot therefore too watchfully guard against.

Let us say a few words about another *coincidence*, namely, the exclusion of religion from the London University. The council of that learned body refer to “the many hundreds of young men in London, who come from the country for the sake of professional education in law and medicine, who have no guide for their religious education unless they find it in relatives or friends interested in their welfare.” The council must be speaking of the young men who come to London to fit themselves for the lower situations in the two professions. Now we should argue that the exception rather proves than disproves the rule against which it is urged. To ridicule religion and to carp at the institutions of their country, to speak with the most unbounded admiration of Mr. Lawrence, and unmeasured contempt of the leading medical men who have op-

posed him, neither argues well for rectitude of principles, nor for correctness of conduct, nor for decorum of manners; at least in the opinion of those who consider that such matters are of more importance than a knowledge of sceptical philosophy. On this subject, indeed, we foresee great changes in the manly and steady character of our citizens. They have been men of high principles, of pure morals, of sound sense,—but nous aurons changés toute cela. Our citizens are no longer to regard firm integrity, but to cultivate philosophical views! Our women are no longer to be distinguished for delicacy of mind and decorum of manners, but are to dazzle us as esprits forts! Then good-bye to English home and comfort, and welcome the chez nous of a Parisian soirée. —Is this exaggeration? Let us inquire if philosophical manners were at all more favorable to happiness than philosophical politics. Marmontel will give us his experience, and it was considerable.

En vivant dans un monde dont les mœurs publiques sont corrompues, il est difficile de ne pas contracter au moins de l'indulgence pour certains vices à la mode. L'opinion, l'exemple, les séductions de la vanité, et surtout l'attrait du plaisir, altèrent dans de jeunes âmes la rectitude du sens intime: l'air et le ton léger dont de vieux libertins savent tourner en badinage les scrupules de la vertu, et en ridicule les règles d'une honnêteté délicate, font que l'on s'accoutume à ne pas y attacher une sérieuse importance. Ce fut sur-tout de cette mollesse de conscience que me guérit mon nouvel état.

Le dirai-je? il faut devenir père, pour juger sainement de ces vices contagieux qui attaquent les mœurs dans leur source, de ces vices doux et perfides qui portent le trouble, la honte, la haine, la désolation, le désespoir dans le sein des familles.

Un célibataire, insensible à ces afflictions qui lui sont étrangères, ne pense ni aux larmes qu'il fera répandre, ni aux fureurs et aux vengeances qu'il allumera dans les cœurs. Tout occupé, comme l'araignée, à tendre ses filets et à guetter l'instant d'y envelopper sa proie, ou il retranche de sa morale le respect des droits les plus saints, ou s'il lui en revient quelque souvenir, il les regarde comme des lois tombées en désuétude. Ce que tant d'autres se permettent de faire ou s'applaudissent d'avoir fait, lui paroît sinon légitime, du moins très-excusable. Il croit pouvoir jouir de la licence des mœurs du temps.

Mais lorsque lui-même il s'est mis au nombre de ceux que les séductions d'un adroit corrupteur peuvent rendre malheureux pour toute la vie; lorsqu'il voit que les artifices, le langage flatteur et attrayant d'un jeune fat n'ont qu'à surprendre ou l'innocence d'une fille, ou la foiblesse d'une femme, pour désoler le plus honnête homme, et lui-même peut-être un jour; averti par son intérêt personnel, il sent combien l'honneur, la foi, la sainteté des mœurs conjugales et domestiques sont pour un époux, pour un père, des propriétés inviolables; et c'est alors qu'il voit d'un œil sévère ce qu'il y a de criminel et de honteux dans de mauvaises mœurs, de quelque décoration que le revête l'éloquence, et sous quelques dehors de bienséance et d'honnêteté que le déguise un industrieux écrivain.—*Mémoires de Marmontel*, vol. iii.

And is this what we shall have in exchange for our religion? And is this the prospect of happiness for future generations? When the Society for the diffusion of Useful Knowledge shall have

taken the place of the Society for the promotion of Christian Knowledge—*quand je serai a la lanterne y verrez vous plus clair ?*

But even this state is not to have any fixedness, if we may infer any thing from history. In the French Revolution, when the sneer was sneered, and the scoff was scoffed, and the laugh was laughed, and the spoils of the prostrate altars had been paraded in obscene mockery, after no long time the people began to pine for the comforts of religion, and to feel the void of an unsatisfied conscience. And so it will ever be. They raised indeed their altars again, but could not recall the misery and the deaths of those who had perished around them.

Many of the objects proposed by the Society for the diffusion of Useful Knowledge are so desirable in themselves, and its endeavors to effect them so respectable, that it may seem invidious to find fault. Surely it is desirable that the better educated portion of the lower orders should be furnished with innocent and useful objects with which to occupy its attention; desirable, indeed, both for its own happiness and the peace of the country, which must be in danger of disturbance from popular energies undirected to beneficial or harmless ends. We either ought to have taught less, or must now teach more. But the diffusers of a knowledge, useful in itself, will make it not only useless but pernicious, if they convert it; either directly or *indirectly*, into an organ for alienating the lower orders from the institutions of their country in church and state. No diffusion of science can compensate for such an evil.

To take, for example, no higher ground than that of worldly policy, and to apply it only to a single instance, namely, that of our Church-establishment,—its interests are too closely connected with those of every order in the state to permit their being separated from the body-politic without a degree of violence, which will give a shake to the frame of society from which it will not recover, till it has been regenerated out of the chaos of revolution. And what benefits are to be sought at this fearful risk? Are they such as cannot be secured without running the hazard? On the contrary, they are the very benefits to which the clergy have been long and steadily leading the people. Who was it that enabled the lower orders to derive instruction from the tracts of the Society for the diffusion of Useful Knowledge? Would not the same teachers eventually have increased their parish libraries with books containing such information as the wants of their parishioners dictated? Are we to be told that such books did not exist before the tracts of the society were published, whilst the volumes of Ferguson and Mrs. Marcett, &c. are in our hands? Or, if they had not existed, that the clergy could not have written them? Are there no lectures on the sciences in our Universities from which they might

derive such knowledge, even supposing them to be as ignorant as their friends of the Westminster would represent them?

Are not the men who fill our professorships in the various branches of philosophy always the soundest, in many instances the most distinguished, men of science in the kingdom? Even in the popular sciences of geology and political economy are our Universities excluded from the best means of information, or have they not instructors in this as in every other division of moral wisdom and physical science, under whose directions popular tracts might easily be composed?

If there is one piece of charlatanry (it is impossible to give it a more respectable appellation) more disgusting than another, it is the constant attempt to transfer the sciences from our Universities to our metropolis—as if moral wisdom will not flourish best under the discipline of Aristotle, and physical science be best cultivated by the study of Newton!—as if the University, which is often supposed to be least devoted to the sciences, did not number among her professors one of the most distinguished geologists and of the ablest political economists of the time. Men of whom we may say, in the words of Cicero, that they eminently possess *illam scientiam ut ex iis rebus quarum ars nondum est artem efficere possint*. I mention these sciences in particular, because they are comparatively of a late growth, and therefore most exposed to neglect, were Oxford as careless of modern knowledge as she is so often described.

Nor is there any thing in the execution of the society's tracts, to discourage the hope, I will not merely say of competing with, but of superseding them (if this duty is forced on the friends of good order) by others better suited to the wants of the people. Any one conversant with the business of teaching must be aware that they are too concise and too synthetical for a mind unaccustomed to a process of reasoning, to follow with such facility as to make study a pleasure. That which is a very good and even simple compendium makes a very poor introductory work for the generality of readers; though minds accustomed to close and consecutive reasoning may find it the very best.

In what I have said on the subject of education, I trust the reader has not detected a desire of being busy without an adequate object. Detesting the character of the incendiary, who makes himself of importance by stirring a strife which but for his meddling spirit would have been extinguished in its own ashes, and fully acknowledging the expediency of giving the middle and lower orders innocent and useful objects on which to employ their faculties—even believing the inquiries of the physical sciences best fitted for the attainment of this object—I yet dread the lessons with which they

may be united. If the diffusers of science will go hand in hand with the promoters of Christian knowledge, striving neither in policy nor religion at ought beyond human nature, but at the degree of excellence which practice, and not theory, warrants us to expect, and human happiness, in such measure as we are permitted to enjoy it, will be the result. But let us beware how we separate the education of the middle and lower orders from religion and the government of the country. Hitherto they have happily been united. How long they may so continue is a question of the deepest importance.

I am,
My dear Hughes,
Yours, affectionately,
J. P. POTTER.

Kensington,
March 28, 1828.

P. S.—On reading what I have written, when it is too late to correct faults in style, the recurrence of *we* for *I* strikes me as likely to give my readers a false impression. It may be necessary to assure them that the above pages were not written for a review, nor does the plural pronoun express either the authority or assistance of a friend. It only expresses the unwillingness of an obscure individual to appear to dictate to his readers, and his endeavor to avoid this by sometimes assuming their assent to what he thought could not fail of obtaining it.

END OF NO. LVII.

LETTERS, &c.
ON
THE CATHOLIC QUESTION
AND
THE ESTABLISHMENT
OF
BRUNSWICK CLUBS.

LONDON:—1828.

THE DUKE OF NEWCASTLE TO LORD KENYON.

MY DEAR LORD,

Sept. 18.

THAT I did not answer your first appeal has been a sufficient reproach to me; I should be ashamed of myself if I could see your second, without making a public avowal of my entire concurrence in your sentiments, and that I heartily back your spirited appeal to our fellow Protestants of the British empire.

I am not more given to dilation with my pen than I am by word of mouth; I never use either but by compulsion; and if I could now conscientiously avoid the labor and the consequent discomfort, I have every inclination and every motive but one for consulting my ease, and indulging in that privacy which, perhaps, may be most congenial to me. Such a course, however, consistently with what I conceive to be my duty, I cannot find it within me to pursue. I must embark in the same vessel with you, and sink or swim in our endeavor to preserve the religion which we love, the constitution which we reverence.

In your own emphatic words, I painfully confess that we do "live in times when every man who values principles should depend on his own exertions, and not on those of princes, prelates, nobles, politicians, or parliament." It is but too true that such is, in reality, the case; or, in other words, that if we wish to preserve our religion and our laws, each must use his individual power to defend preventively or absolutely the constitution which he has sworn to preserve inviolable in church and state. It may

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sound finely in a republican ear to be told that all are bound to participate in the management of the national interests, and that the will of the people should direct the affairs of the country. I cannot subscribe to such dangerous doctrine as a maxim; I see the mischief of a popular assumption of the executive, and I would, if I could, avoid it; but, unfortunately, we have no choice now—we are driven into a corner, and we must either make a desperate effort to preserve our constitution or lose it altogether. Deserted or unsupported by those in power, we see ourselves on the brink of ruin; and is it to be imagined that we can or will ignominiously abandon our sacred duty, and basely yield either to our betrayers or our enemies?

An appeal to the nation is our only resource—it must be made; and the voice of the nation must decide whether Protestantism or Popery shall prevail; whether, by treading in the footsteps of our forefathers, we will maintain the Protestant ascendancy which their practical wisdom established for us; or whether, to our eternal shame, to our certain punishment, we will see the Jesuits triumphant, and the idolatrous worship of Papists openly displayed throughout this now Protestant land. In short, the nation must decide whether these kingdoms shall be at once the cradle and the citadel of Protestantism and real liberty, or the hot-bed of Popery, with its scarlet train of mental and political despotism.

We are now arrived at the period when we are compelled to judge and act for ourselves; the bane and antidote are before us; our choice must be made; we must now decide whether we will range ourselves with Protestants or Papists—whether we will serve God or mammon.

Nothing is to be expected from parliament, because nothing is to be done by the government; nothing is to be done by the government, because neutrality, conciliation, and modern liberality are still ruling the deliberations of the cabinet. Thus the honesty and virtuous feeling for which this country has long been renowned are decreed to be neutralised and deadened; religion and morality, principle, patriotism, and the boasted constitution, are doomed to perish from sheer inattention.

But will our fellow Protestants commit this suicide? Why is the nation listless, apathetic, and dead, to every patriotic impulse? Why are virtue and vice, right and wrong, amalgamated as it were, and so blended together, that the one and the other possess an equal value? or rather I should correct myself, and say, why are the bad qualities predominant? why are the highest and noblest attributes of human nature outraged by a prescribed subordination to bad measures, vicious systems, and detestable principles? The cause, I fear, may be thus explained. For years past the go-

verment of the country have thought fit blindly to adopt, and obstinately to persevere in, a system of neutrality which has gradually produced the most deadly evil that can befall a nation—a loss of principle. It is in vain to say that this or that cause has produced this or that bad effect; that the march of intellect, the spread of knowledge, or philosophy, or liberality, or any of those jargonic explicatives, the very sound of which makes the heart sick, have brought the nation into its present state; it is not so—we must put the saddle on the right horse, and I assert openly that the government has done the work. There may, indeed, have been a predisposition to these delusive theories on the part of some restless speculators; but to the government belongs the blame, and the government must bear it.

In 1807 the voice of the nation rejected an administration, strong in talent, but weak in the possession of the public confidence. An overwhelming feeling confirmed the power of its successor, which was proudly and triumphantly favored by popular support, because it was supposed to be purely Protestant, to be pledged to oppose Popery, and to support the national affections, the national interests. Nobly and most beneficially did this administration execute its duty, opposing Popery, upholding Protestantism, supporting the national interests, cherishing the established religion, encouraging national morality as well by its example as by its care, boldly defending the constitution, and preserving it uninjured in church or state from the united attacks of dangerous and desperate men, and, above all things, keeping this leading object in view—that it is the duty of a government to act towards the nation as a good father of a family would act towards his family, namely, by the establishment of public virtue founded on public principle. The admirable Perceval knew well by experience, and thus foresaw, that, because it is worthless, nothing can be lasting that is not founded on principled virtue; that no nation can endure and prosper without it: that other nations had suffered the severest retributive justice for their national crimes; and that we evidently owed our comparative exemption from the horrors which the divine vengeance poured on those devoted countries, to our own comparative exemption from the vices and corruption which prevailed in them. Taking for his motto that honesty is the best policy, the straightforward, intelligible, and defined policy of the minister gained the applause even of his opponents; whilst his friends, sure of his support and encouragement in their endeavor to promote his generous measures for the public welfare, acted with spirit, union, and confidence.

Thus we continued blessed with an administration which acted on known principles; until in 1812 the same hand which deprived

Mr. Perceval of life extinguished also the light of the administration. We lost our virtuous, exemplary, and highly-gifted minister, and from that time our moral decline commenced. Then began the accursed system of liberalism, neutrality, and conciliation—right and wrong, virtue and vice, the friend and the enemy of his country, were to be confounded—distinctions were to be levelled—all was to bend to expediency, and principle must not stand in the way of policy.

Could any one mistake what would be the sure consequence of such a vile system? Assuredly, as it has happened, it would follow that the country would be gradually demoralised. What before seemed odious or immoral, no longer disgusted; all ancient institutions began to be considered as rubbish; history as an old almanack; experience was to be cast away; all that is valuable to us was to be vilified, derided, and trampled on; and finally, liberality enthroned itself in the chief seat to influence, and directed the counsels of the nation. The country now found itself without guides, although it had a government; the high offices were filled, it is true, but not by governors. The executive was in other hands. Instead of resisting innovation, they yielded to it; instead of leading public opinion, they bowed to its counterfeits; and thus quackery, deceit, and hollow pretension gained so much strength, that their opponents were almost obliged to hide their diminished heads. Then followed the effects of this contemptible system. The depraved, the disaffected, and the self-opinionated, are always the most noisy and turbulent. They clamored; they made themselves to be heard; finding their strength, and presuming on their acquired consequence, they artfully contrived, through the administration, in fact, to rule the state; and the administration, preferring place and irresponsible tranquillity to a noble rejection of either, when principle is at stake, suffered our constitutional excellence, and all that has been hitherto deemed most sacred or most valuable, to perish, for want of encouragement and protection; whilst the designing liberalist gloried in his success, and chuckled at the impending misfortunes which he well knew would result from such a total revolution in the government and constitution of the country.

I have endeavored, as much as possible, to abbreviate and compress this description into the smallest compass compatible with an intelligible statement of my view of this cardinal point. If we know where error lies, we may correct, perhaps eradicate it. I have undigressedly stated what I conceive to be its origin, growth, and maturation; and I have for this purpose attempted to sketch my view of cause and effect up to the present time. I shall omit all farther comment, and proceed at once to the

change of ministry in January last. Every heart beat with high expectation—every patriot rejoiced in the anticipated appointment of the Duke of Wellington to the head of affairs. The lover of his country fondly hoped that the time had at last arrived when an end would be put to the hateful system of liberalism, neutrality, and conciliation; he made sure that the high character which had formerly distinguished the nation would be recovered; and that, in the place of national demoralisation, a new system would be established, calculated to restore the national energy, by an undeviating rectitude of principle, the character of which would be stamped by the uncompromising character of the government. We all know how the result fulfilled our anxious expectations.

The last session of parliament I consider to have been by far the most disastrous of any in the memory of man; it was pre-eminently stained by liberalising religion—and this I believe from my conscience to be a fatal stab to the established church, as well as to the peace of the country and the existence of the constitution.

By an utter dereliction of principle we have sought to appease those who are actuated by no principle but a hatred of order—we thus depress and disgust our most valuable friends—we invest our enemies with the power taken from our friends—and, to fill up the measure of our misdoing, we offend our God in the disowning of Christianity.

I simply ask, if we desert our God, will he not desert us—will he not be avenged on such a nation as this?

An inaction totally inexplicable possesses the government. We see rebellion stalk through the land with impunity—conciliation still reigns in our councils. The Popish association, day after day, audaciously asserts its omnipotence, and proclaims aloud that it will yield to no other authority. One of their members—a fellow who years since deserved to be hanged for his treason—has, through this means, been chosen to sit in a British parliament, although a Papist. Itinerant Popish demagogues are roaming through the country, spouting sedition and treason; and who offers the slightest opposition to all this? No one.

What, I ask, is to prevent traitors from rising in every marketplace of every town of Great Britain, to vomit forth their pestilent harangues? or are such wretches only to be allowed this exclusive privilege in Ireland? Shame, shame on the government which can for an hour, for a minute, permit such dangerous excesses to be practised with blind impunity! I am unwilling to inculcate our chief minister, because I had rested my last principal hope on him; my expectation was, that Nelson's memorable recommen-

dation would not be lost on him, and that England would see him, at all risks, and under all circumstances, do his duty. Let us hope that a mistaken view has alone led him into so vast an error. But when this error is exposed, it will be unpardonable, it will be criminal, if the remedy be not instantly applied.

In the midst of this tremendous storm and danger of shipwreck we are told not to fear, that we have men for our ministers who will guard us from all danger. I may be called a very timid mariner, but I cannot prevent myself from crying out; I loudly assert that the ship is in the utmost danger, and as yet the helmsman has done nothing visibly to preserve it; the murmurs of a portion of the crew have burst into open mutiny; and nothing but the prompt energy of the captain, or the united efforts of the remainder of the crew, can save it from destruction.

Figure apart, imminent danger is at the door of the constitution; something must instantly be done, or it may be destroyed. We must no longer wait in expectation of tardy assistance, we must act for ourselves; and if the ministers will co-operate with us, so much the better; but we must not, we will not, be sacrificed.

We are assured that the Duke of Wellington is true to our cause, but that he dares not to act of himself—that he wishes to be backed by popular support. I am quite willing to believe that he does continue true to the Protestant cause, and to the preservation of those interests which are as dear to us as life itself; but if he be true, wherefore this unaccountable inaction? We know that he must be fearless; but, if fearless, how can it be explained that he dares not to act on his own ministerial responsibility, but requires the popular aid to attempt that which is peculiarly the duty of the executive?

If my positions are as true as I firmly believe them to be, then indeed have I made out a case of extremity, and it is high time that the nation should bestir itself, and do that for itself which others either fear or refuse to do for it.

Let the nation look forward a little to the future; let it consider what must very shortly be the inevitable consequence of the present frightful state of things; it will then see the danger which stares us in the face; and if it is desirous of preserving our glorious constitution, of upholding religion, of maintaining the laws, rights, and liberties of our country, so as in some measure to merit the favor of God and man, then, I would say, let the nation arouse from its lethargy; let it stand forth in the panoply of its natural excellence; let it declare its intentions; let it demand that the Popish association shall be instantly annihilated; let it demand that the voice of treason shall be stifled; let it

demand that all Popish establishments of whatever nature, whether Jesuits' colleges or monasteries, &c. &c. shall be immediately abolished; let them demand that no Roman Catholics shall vote at elections; and finally, let them require a full and undisputed Protestant ascendancy within these realms.

This, however, must not be delayed; time presses, and the enemy is at the gate; the unanimous voice of the nation should be heard in a tone which cannot be mistaken, and our invaluable constitution will be safe against her most inveterate enemies, whether secret or avowed.

You, my dear Lord, have manfully sounded the warning trumpet; you have ably appealed to our Protestant countrymen; I trust that they will as manfully answer to the call. They must unite in Protestant associations from one end of the country to the other; and as parliament is not sitting, they should address their Protestant king; and may God protect our country, and prosper their patriotic exertions!

I have thus endeavored, very imperfectly, I admit, to describe my notions on this momentous subject. I have written freely; why should I not? Some one must speak out; my duty and my interest compel me to conceal nothing, and in this respect I acquit myself of any deficiency. I have extenuated where I could do so with propriety; I have set down nought in malice or hostility, for I entertain none. Perilous times require strong remedies and home truths; you will perceive that I have not flinched from recommending the one, and stating the other. I am well aware that in doing this I am subjecting myself to severe animadversions; but I am heedless of consequences to myself, if I may ever so slightly benefit the great cause which is at stake. My anxiety also to prove my gratitude to you by answering to your appeal has been an additional incitement; and thus I have been doubly urged forward to the completion of my unpleasant task.

I have been led into far greater length than I at first contemplated; and it is now fit that I should assure you of the esteem with which

I am, my dear Lord,
Very sincerely and faithfully yours,
NEWCASTLE.

The Right Hon. Lord Kenyon.

MARTIN STAPYLTON, ESQ.

TO

THE DUKE OF NEWCASTLE.

LONDON:—1828.

MY LORD DUKE,

I OBSERVE in this day's *Morning Chronicle* your Grace's descent into the arena of political controversy not by speeches in that House of which you are an hereditary member—but by a letter to Lord Kenyon, containing the most unmeaning complaints on the fancied outrages of our constitution, and the most rash and dangerous counsels for a confederacy, which, if generally adopted, would separate our Sister Kingdom from the throne of these realms.

You demand the Protestant ascendancy to be supported. Wherein does the legitimate ascendancy of our Protestant church exhibit proofs of decay, and in what respect does it require the aid of continued persecution to sustain it? The doctrines of the Reformation are the leading, and the only doctrines which the dignitaries of our ecclesiastical policy acknowledge. The rights of those dignitaries have increased with revolving years. Their revenues are more abundant at present than at any preceding period; and the fines on the renewal of leases are so enlarged as to be almost oppressive on those who hold estates by church tenures, which I am happy to say I do not.

Proficiency in studies and piety in conduct as well as high birth have advanced those dignitaries to the highest offices; and no one is heard to complain when an amiable archbishop leaves, as it is reported, 200,000*l.* to his relatives, and his options to his successor.

Two brethren eminent for piety and learning have lately been promoted to the episcopal bench. Does your Grace suppose that either of these men, so peculiarly selected without borough patronage, have a latent attachment to the errors of Rome? and surely to such men in preference to the Brunswick clubs, you may cheerfully confide the safety of the Protestant church. Moreover, without depreciation of your Grace's talents for con-

troversy, you might have left your cause to the secretary of state, Mr. Peel, who since February last has been so devoted to the anticipation of the triumphs of No Popery, that he views without horror, perhaps with complacency, the immurement from comfort friends and lawyers of those lesser criminals in debt the *humble debtors* of the county of Sussex, in the jail at Horsham.

As your Grace is not contented with all these safeguards to the Protestant ascendancy, nor with your own exhibition of eloquence as a peer, and the influence of some dozen members with which you favor the British House of Commons to support your patronage of that ascendancy, permit me till more powerful pens extinguish the hopes which the intolerant may derive from your letter, to controvert some of its unconstitutional principles, and particularly most solemnly to asseverate in contradiction to your Grace, that the "*will of the people should direct the affairs of the country.*" It was by that "*will,*" and for the welfare of the people alone, that the present dynasty of our beloved monarch was permitted to fill the throne which their predecessors, not only by predilection for Popery, but by their love of tyranny disgraced; and from which, by the mere "*will of the people,*" under the blessing of God, they were most deservedly cashiered.

If the time should ever come when a scion of the house of Brunswick shall view with contempt the will of the people, and disregard their welfare by practical tyranny, he will cease to be the chosen monarch of the British isles; he may agree and he may assort with the proprietors of boroughs as the tool of a party, but he will no longer possess that which our present king most dearly prizes—the affectionate loyalty of a devoted nation.

Had Retford by the extension of the elective franchise to the hundreds been ceded to your Grace, the minister by his consent to such cession would have exemplified contempt "*for the will of the people;*" but would he by this disgraceful exemplification of your theories have rendered more transparent the "*purity of our constitution,*" or more strongly fortified the intrenchments of the Protestant church from the encroachments of Popish conspirators?

No one has greater disapproval of some peculiar doctrines of the Church of Rome than the individual who addresses you; but on the question whether we should debar from their just political rights millions of oppressed Irishmen, I stop not to inquire by what precise mode of faith the Irish Christian seeks his God. Can this world be made only for one small body of the elect; and are the traffickers or proprietors of boroughs more able to judge who are so elected than those dignitaries who, less attached to the brick and mortar than to the sanctuary of the establishment,

view the errors of their Catholic brethren with a Christian's charity, and disdain not to be warmed by the same sun—to breathe the same pure air—to associate on the same bench of justice, and in the same legislative councils of the nation to unite for the precise preservation of the British constitution?

These Catholic brethren are descended from the same common ancestors—they are our relatives or our friends. Perhaps they would have been converted, but that their more immediate predecessors disregarded the controversy of the times, and therefore were as ignorant on such subjects as the Duke of Wellington proves himself to be when he confounds Methodists with Dissenters in his letter lately published, considering Methodists to be personally interested in the late repeal of the Test Act, which most undoubtedly they were not.

By toleration, which is the very essence of the Protestant church—by the distribution of Bibles, on which that church professes itself to be founded—by fair controversy—by doing justice to oppressed Irishmen, and not by the sword let us prove the purity of our establishment, and the sanctitude of our intentions.

If I err, I err, my Lord Duke, in the beaten track of men as eminent for piety and for talent as any who ever trod the British soil.

If the zeal of men peculiarly pious inspire you, consult Wilberforce. That great man who still graces the terrestrial globe as the regenerator of the African race, whose services to humanity, which you will perhaps style liberalism, will be remembered when your Grace and myself are forgotten, in his last conversation some time back with me, assured me that the Catholic question had become a political, and not a religious inquiry; that the time had ceased when the exclusion of Catholics from civil rights was a proper ordination; and that, in fact by the cessation of persecution, the Protestant church would acquire fresh force.

The Catholics, no longer persecuted, would have no more power to harass the state than other seceders from the establishment.

Reduce the question merely to a question of faith to be determined by fair and just reasoning.

The Liturgy of the Church of England is the most perfect of all human compositions; the doctrines of that church are the most pure; the members of the clerical establishment fear not a comparison with those of any other profession, on the basis of their learning and the morality of their lives. To their argumentative talents, and to the exemplary conduct of their lives, and not to brute force, you may properly trust for having in due time the conversion of the Catholics. Confound not their labors with

the errors of parliamentary despots, or the silly noise of such persons as those who disturbed the late elections for Yorkshire, and other counties, by screaming "No Popery"—seeming to consider the freeholders assembled to constitute not a house of parliament but a house of convocation, and no man qualified to direct the councils of the nation, unless to the distribution of his money for bawling adherents he added a plenitude, and gave a pledge of intolerance to millions of suffering subjects.

When you and your party, whether dukes or proprietors of boroughs, threaten to "act for yourselves," in what interpretation, my Lord Duke, would you wish me to consider this expression? Is it requisite to remind your Grace that it was by disregarding "the will of the people," that the ancient noblesse of France involved themselves in irretrievable calamity, and deluged their country with blood? The Corinthian pillar of polished society was stranded from that soil on which it had been so proudly reared; and modern France is now comparatively a nation of forty-shilling freeholders.

It is true, my Lord Duke, if the sword be drawn Ireland may succumb. The English can I admit conquer as they have conquered—can massacre as they have massacred tribes of less powerful clans in Ireland; but when Ireland has succumbed, or if a foreign state tenders to her those bonds of amity which we foolishly renounce for the pride of conquest or the lust of persecution, will our gracious sovereign thank the Brunswick associations for the loss of the brightest jewel in his diadem?

The people of England have lived in harmony and love with their fellow-subjects of Ireland; they are indebted to them for blood spilt in their battles, of which the Irish in their own country reap no advantage—for honor acquired by their victories, which separated from Ireland England could never have obtained. Three-fourths of the Irish are disgusted or estranged in their affections from the mal-administration or temporising policy of those governments which preceded that in which the masterly mind of Canning, stimulated by the honorable feelings of a liberal heart, yielded conviction to the principles of his opponents.

Whilst the march of power fascinated your Grace, that of intellect directed the energies of that statesman to admit to his heart's friendship in the united esteem of his sovereign such men as a Lansdown and a Carlisle. But the change in January last restores Mr. Peel to power; and then your Grace quaintly expresses,—“Patriots rejoice at the anticipated appointment” of a military premier; and then your Grace fondly hoped, “liberalism and conciliation were put an end to.”

Your Grace simply asks, “if we desert our God, will he not

desert us?" And is it to the God of mercy you appeal, because we hesitate to destroy our brethren for adherence to doctrines which in better times than the present our ancestors professed, and for the errors of which doctrines I trust that the great captain of the age, whom you accuse of "not daring to act of himself," will never dare to substitute blood and slaughter for the intellectual weapons of argument and conciliation?

These few thoughts, written a few hours after the perusal of your letter to Lord Kenyon, will suffice till your lucubrations are replied to by abler pens than that of him, who has the honor to be,

My Lord Duke,

With all possible personal respect,

Your Grace's obedient servant,

MARTIN STAPYLTON. !

18, *Manchester Square*,
Sept. 23, 1828.

To his Grace
The Duke of Newcastle.

**LORD NUGENT TO HIS CONSTITUENTS,
THE ELECTORS OF AYLESBURY.**

LONDON:—1828.

Lilies, Oct. 17.

GENTLEMEN,

I HAVE not been in the habit of wantonly obtruding on you any opinions of my own respecting the conduct of others on either local or general politics. My duty is limited to the laying my own public principles before you, and to the acting on them to the best of my power in parliament to which you have sent me; it is yours to form your own conclusions on the events that are passing round you, and to give effect to those conclusions by the means which the constitution has placed in your hands. You will also do me the justice to feel, that it is not by any act of mine that I am now forced to break that silence which many considerations have long conspired to impose on me.

On my return, after a short absence from my county and from England, I find that, during that interval, a new and extraordinary appeal has been made to you by the formation of a private society in our town, of a sort which, for some reasons, I should not have expected to see made at this time in Buckinghamshire. It is an appeal, not only against my own opinions on the subject of religious liberty, but also against that political tranquillity and neighborly spirit which I believe it to be the disposition of most of us, and I know it to be the duty of all, to endeavor to preserve throughout the utmost opposition of opinions on public matters. I am happy to find, what I might well have expected from the folly of the design, that the execution of it is in a fair course of failure. But the attempt having been made (with, however, little success or applause), for me to decline the earliest opportunity of meeting it, would be to shrink from the duty I owe you, and from the duty I owe to the peace of this part of the county in which I bear so deep an interest.

It is not my intention at this time to trouble you with any argument on the right or wrong of what is called the Catholic question. I have done so often enough already, and by all those public means which are open to us. My opinions on that question are

not changed ; but, as far as they could be strengthened, they are strengthened. That question must now be left to work its own way with the English people, who are given to reflection, and fond of justice, wherever they do not allow prejudice and passion to guard the avenues of the public mind equally against reflection and justice. I would only lay before you fairly the alternative in which the government and people of this empire have been placed with reference to that question, by the operation of that very system of club-law, which it is attempted, now for the first time here, to graft on the good old stock of public opinion.

A short visit to Ireland, in the course of which I have endeavored, with as much impartiality as is compatible with strong preconceived opinions, to correct by observation any inaccurate notions into which I may have fallen, gives me more right than I should otherwise have had to state to you the effects which have been produced and matured there by that system. The body called the Catholic Association, but, in fact, containing a great number of Protestant members, derived its origin from the club spirit which had been cultivated by the Orange faction. The Orange faction was the cause of the Catholic Association, which, though late, caught the spirit, and the result is, that four-fifths of Ireland now look to no other government but that of the Association. It now governs four-fifths of Ireland, without the power of rewards or punishments, but simply and solely by impression. It has not only the power of excitement and organisation ; for that is easily obtained with a people laboring under a sense of injury. It has not only the power, if its leaders were wild and wicked enough now to exert it, of raising four-fifths of Ireland in forty-eight hours to any act of combined violence ; but it has shown that it possesses also the much greater power of controlling, quelling, and dissolving meetings of thousands by a word of advice. Is this a state of things that should continue ? Is this a fit power to subsist under any well-regulated government ? Certainly quite the reverse. But the government of Ireland is not a well-regulated government ; for it has for many years been in the hands of clubs. The Orangemen had long monopolised all that the government could give to corruption to enjoy, or could permit to violence to extort. Of late the government has been in wiser and juster hands ; never, I think, as far as one may judge from a very short experience, in wiser or juster than those of Lord Anglesey. But this abridgment of their power is not tolerated by the Orange clubs. In all ways, and in all places, and, I lament to say it, from under every garb, even the sacred and peaceful one of the Christian ministry, the Orangemen are now crying out for blood, and avowing their wish to see it flow. The Association has been successful in showing to

the Catholics that to do acts of violence would be to play the game of their adversaries. It has succeeded in putting the Catholics on their guard against the Orange spies, who are all over the south of Ireland in the guise of friends and Catholics, endeavoring to excite them to acts which would justify the calling in the troops. This triumph will not be given by the Catholics to the Orangemen. Meetings of a very dangerous sort (if not illegal, which I am not lawyer enough to determine), but meetings of many thousands of Catholics were held, a few weeks ago, in different parts of the south ;—not for purposes of violence, but for purposes out of which, however peaceable, violence might, by the arts of the Orangemen, at any moment have been made to arise. The Association saw this, and in forty-eight hours, by a mere address, every assembly of this sort in Ireland was dispersed, and its recurrence prevented. A week after followed the proclamation of the government. A mild and wise one, to the same effect as that of the Association by which the work of tranquillisation had been already done. Then what must I conclude ? Do I approve of every act of the Association ? No. Do I think it a fit form of government for Ireland ? Far from it. But I think that it has arisen out of the club spirit of its adversaries. I think that it is now maintaining the public peace in Ireland, which no other power could effectually do. I think that, when justice shall have been done to Ireland, it should and would be dissolved instantly ; but that, till then, it neither can effectually, nor ought.

From the remotest times of our occupation of Ireland to the present, we have not discovered the secret of governing that island ; nor have we approached nearer to that desirable discovery by applying the club system. We have labored to bring Ireland to our established faith ;—we have not adapted our means well to that end. We began by dismantling their ancient churches. The consequence is, that Ireland is beset with monuments of her ancient religion, which form an appeal as melancholy and as exciting as can be imagined. Small open ruins, some with the marks of violence still on their walls, and all bearing tokens of systematic persecution, surrounded by burying-grounds also in decay, overgrown with rank grass, and open to the country. Yet these contain the tombs of some of the noblest names of Ireland—of men who have clung, and whose sons are still clinging, to the desire of laying their remains close by the insulted and violated graves of their forefathers. Records of a strange error in a proselyting government ! But, to complete the picture, the eye of the Catholic, while surveying these sad memorials of what his faith and his family have suffered from the Protestant, is met, at almost the same glance, by the neighboring new Protestant spire, every

where rendering them more striking by the contrast. And this is one of the subjects of feeling which it is proposed to subdue by the generalising of Orange clubs.

The tithes, very unequal and severe as they are, are generally collected, in Catholic parishes, by proctors, to be transmitted to the Protestant clergyman, often residing in London or Bath: and non-residence is often the better ministry of the two, in this respect, that at least the Catholic is not further irritated by the view of an incumbent having no duties assigned to him, but the receiving his sinecure wages from persons who have already contributed largely, out of their poverty, to support their own pastor in the duties of their religion. I do not say this in disparagement of the persons of the Irish Protestant clergy, but of the system under which they are provided for: and this is another of the subjects of feeling, which it is proposed to subdue by inviting this very clergy to be partners in Orange clubs!

There are two classes of opinions which I have heard offered as to the state of public feeling in Ireland. One, that the lower orders of Irish feel no interest in what is called emancipation; the other, that they are led blindly by their priests. Now of these propositions the first is quite untrue, and the second is not true in the sense or to the extent in which it is generally stated. To the first of these notions the result of some of the late elections surely seems a sufficient answer. That many an Irish Catholic who shouts for emancipation knows as little what the term means as does many an English Protestant who shouts against it, is quite true; but they all understand that it is to relieve them from the intolerable usurpation of Orange ascendancy. They understand that it is something that will prevent their being hereafter daily told, in ways that make their blood boil, that they are a subordinate caste; and they understand that it is something that will limit the Orangeman in the enjoyment of his ancient monopoly of personal insolence. Will the lower orders, it is asked, gain any solid advantage by Catholic emancipation? None that I know of, but this I should feel, if I were a Catholic, to be a very solid advantage. Are the lower orders substantially sufferers under the Catholic disabilities? The infliction by regimen of a kick *per diem* would not, I dare say, be productive of any serious bodily injury; and yet there is an opinion prevalent among gentlemen, that it is a regimen which one ought rather to risk one's life than submit to the first dose of. I think some gentleman, not long ago, said, in some public assembly, that he believed that if you were to go through Ireland with a pound sterling in one hand, and emancipation in the other, the Catholic would prefer the pound. Surely this was tried by the landlords at the

late election, who offered, not a pound only, but all that could keep the poor forty-shilling freeholder from beggary for the rest of his life, if he would but abstain from supporting the candidate who supported Catholic emancipation. And the choice was made by the Catholic voter instantly, and almost universally, for emancipation. This was a great triumph over corruption. Enthusiasm, if you will—fanaticism, if you will; but it was too strong for corruption.

But it is said they are led blindly by their priests. Not quite so blindly as some imagine. I grant that the power of the priests, through auricular confession, and through many of what we Protestants hold to be the abuses of their church, is very great. But I am convinced that the priests are now, politically, only instruments in the hands of the Association, and subordinate to their power. Powerful instruments themselves, but instruments still. And here is the proof of it. At the great contested elections of Waterford and Clare, there were several instances of priests who canvassed their flocks for the landlords and against the popular candidates. The parishioners, in spite of the spiritual influence, stood fast for the political question. They told their priests to begone with their advice; and in some instances the influence of these priests has, in consequence, so decreased, that they have been obliged to abandon their cures. If any thing could bring the priests and the Association generally into conflict with each other, while this great question is pending, I am convinced that the Association would prevail. Now they are united, and the Association works generally through the influence of the priests.

What then confirms the power of the priests, of which we are complaining? The Orange-club system, which has given power to the Association, and identifies its interests with those of the priests.

Now it is most important to look soberly at the following question, and not to deceive ourselves. What is the price at which we are content to purchase the delaying for a few years longer to give to the Catholics of Ireland not political power, as is falsely represented, (for that they already have entire in the elective franchise,) but the incitement to use their political power in friendship, instead of in conflict, with the mother state? I wish, as I said at the beginning, to avoid arguing the Catholic question. I wish merely to put before you the terms of the alternative. It will not be a struggle of a day or a year, in which a great national effort will be made against the pope and all his works; and after Mr. Lawless shall have been sabred, and Mr. O'Connell gagged, and Dr. Doyle converted, the work will be done, and our heroes

return with all the glory that will belong to such an achievement. Oh, no ;—it will be a dogged, endless, hopeless disaffection in Ireland, and an agreeable garrison-duty for England, during the joint lives of the two parties ; throughout which period Irish property will not be very secure, and the rents of Irish landlords, and the tithes of the Church of Ireland, will have less of regularity and more of adventure in the collection than will be pleasant to the collectors. It is said here by sundry members of Brunswick associations, (as far as one may collect of their lucubrations from what is allowed to meet the public ear,) "We will not be bullied." Who bullies them? Ask yourselves fairly what demand would be made on their personal valor if all Ireland were to be in flames to-morrow. None. It requires no effort of courage to read at one's breakfast-table of the progress of a massacre in another island. And therefore, though the talking here of wading up to our own proper knees in blood be to some tastes a very affecting figure of speech, it is nevertheless one which, when well considered, is neither evidence of accurate calculation nor of heroic self-devotion. Nothing is more certain than this—that there is a salutary fear of states which it is a vulgar fallacy to confound with personal pusillanimity, as there is a thirst for requiring martial renown by proxy which does not necessarily argue an overflowing of personal courage. No man ought to fear danger for himself, but every man ought to fear danger for his country. The inconvenience which we shall all suffer till the great question shall be set at rest is simply this—we shall have to bleed in a very different and more metaphorical way. So long as we are at peace with all foreign states, and wish to torment Ireland, we must be content to pay the tax-gatherer pretty highly twice a year for that gratification. We shall find Orange ascendancy a luxury charged high to us all in the schedule ; and, in return for these regular payments, we shall hear of thousands of additional troops being sent to keep our victims quiet under an operation performed for the recreation of others, which we shall not even have the amusement of witnessing. We must also make up our minds to be at peace for all time to come with all the rest of the world ; and to be bullied with impunity by second and third-rate powers, who, when they look at Ireland, do not fail to see why it is that we dare not hold to them the tone which we once held, and which we ought to hold now. The first shot that is fired between us and any foreign power, in good serious warfare, will be the signal for the emancipation of many millions of our subjects either by an act of our own, which will be then thankless, or by an act of theirs, which will be their final separation from our empire. Meanwhile we must continue to resemble the man, as I saw it

somewhere well described, who is bullied and laughed at by all his neighbors, but comforts himself at home by beating his wife.

I will say no more of Catholic emancipation than this,—that I am as sure that the thing will be done before long, as I am that Ireland will be lost if it be not done. I am at the same time from my soul convinced, that whatever difficulty there may be of tranquillising Ireland now, it will be multiplied in compound proportion every year that that act is delayed. At the Union, the act would have been easy, and its tranquillising effects complete. In 1807 less so, but more than now. In 1825 less so still, but more than now by the “wings,” the loss of which the very Orangemen now bewail. Year after year, as the difficulties increase and the immediate advantages diminish, the necessity will become more and more urgent and indispensable. I will leave this part of the subject, only entreating gentlemen who still have opinions against granting the political relief, (and I respect conscientious opinions of every sort,) to consider this, and consider it deeply. Granting, for the sake of argument, all the dangers they now apprehend from concession, may the time not arrive when it will become a mere choice between two dangers, which may not only justify, but call on a prudent man to embrace the lesser in order to avoid a much greater and a much more imminent? Implying gentlemen to lay this question to their hearts, and to ponder it well before it be too late; let me ask in conclusion by what has Ireland been brought into the peril and distraction in which we all agree that she is now placed? Why, by this odious and un-English system of endeavoring to govern by clubs. The Irish Brunswick clubs, which are formed for a practical purpose,—that of exciting civil war in order to restore the waning ascendancy of an illegal faction,—I view with alarm and detestation. Those of England, which are formed for no purpose at all, but that of larking people to address to each other speeches and letters of dull detraction, and to mix up a little of their own acid humor in the composition of every society within their influence, I can only view with another feeling not less deep, but of a much less ardent sort, to which I will not give a name. These are they who talk in their weakness of fettering the government; who, by dint of the proffer of some rotten-borough influence, which a government fit to rule this country ought sufficiently to feel its own popularity to be able to toss back to the profferers with disdain, think themselves strong enough to proclaim to the Duke of Wellington that he, whom they lately set up as their idol, must now be content to be moved as their puppet. These are they who, at the very moment when a lucky experience is demonstrating to them their own inability to stand

up as a party in the state, would throw the shield of their impotence before the insulted majesty of the English constitution and the Protestant faith. "*Non tali auxilio*," indeed, "*nec defensoribus istis*."

I would only ask my constituents to recollect that this very party is the same who unsuccessfully resisted the repeal of the disabilities of the Protestant Dissenters, and who are now proclaiming that glorious triumph of policy, justice, and Christian charity, to have been a "fatal stab" to the constitution of our country.

For certain of the members of this strange society, just formed, I have a sincere personal regard and respect, which nothing is ever likely to diminish. I know them to be men of honor and humanity. I would appeal to them, as individuals, by every feeling of their own hearts, against the flagitious passions and the bloody acts which they are now banding themselves unknowingly to countenance. On this point, when the excitement which now rages shall have been cooled, I am as sure that we shall hereafter and at no very distant period agree, as I am that they are at this moment innocent of all conception of the mischief of the work to which they are lending themselves. It has been proposed to me to assist in raising the standard of an opposite association here, to rally the friends of religious liberty. My answer is, that I will not propose, and will consider well before I join in, any such project; being quite content to leave the Brunswickers to profit, unopposed, by the mortifying lesson which I am persuaded they will receive. Should they ever face the public, in public I will meet them. But in the meanwhile it appears to me that I should ill perform my duties as a citizen, and still worse those of a magistrate, with which the King's commission has invested me, if, without strong necessity, I were to assist in any way in dividing this county into two factions, such as have distracted the unhappy country from which I have lately returned.

I am, gentlemen, ever your faithful friend and servant,

NUGENT.

LORD BEXLEY'S ADDRESS

TO THE FREEHOLDERS OF THE COUNTY OF KENT.

LONDON:—1828.

GENTLEMEN,

HAVING no official situation, or distinguished station in the county, which peculiarly called on me to address you yesterday, and perceiving that voices much more powerful than mine could reach only a very small part of the assembled multitude, and that, therefore, the sentiments of those who addressed you, though delivered on Penenden Heath, must substantially reach you through the medium of the press, I determined to remain a silent spectator of the proceedings. I also felt that some of the statements to which I wished to call your attention were of a nature which required more deliberate consideration than the excitement and agitation of such a scene rendered possible.

Before I enter on the general subject, I wish to correct a misstatement, relative to myself, which has appeared in the public papers, and which, as it might be calculated to injure me in your good opinion, after the part which I took in signing the requisition for the meeting, in some degree imposes on me the obligation of addressing you. It has been asserted that it was my intention either to make or support a motion of adjournment. That I voted against the motion when made by Mr. Hodges is known to those who were near me; and it is so far from ever having been my intention to take such a course, that in the answer I made to the very first communication I received on the subject of any proceedings in the county relative to the Catholic question, I expressed a distinct opinion that nothing short of the declared sense of the freeholders taken at a county meeting regularly convened could produce that effect on public opinion, which it was the object of my noble friend who addressed me to bring about.

Having disposed of this personal point, I wish next to declare that it was neither my object, nor, as far as I know, that of others who joined in convening the meeting, to express a premature opinion on any measures the government may think it right to

submit to parliament, or to dictate to the legislature the course which it should pursue.

We have great confidence that those ministers who have long been the able and successful advocates of the Protestant cause, will continue to give it effectual support; and we are so far from a wish to intimidate the legislature, as has been calumniously imputed to us, in so many forms and in so public a manner, that it is our desire to rescue the two Houses of Parliament from the intimidation under which it is attempted to compel them to sanction measures which their deliberative judgment has repeatedly rejected.

It is attempted, under the dread of the consequences of longer resisting the claims of the Roman Catholics, to compel the legislature to assent to their pretensions, not from a sense of their justice or expediency, not with due deliberation and a full view of the future consequences of concession, but for the purposes of averting the immediate evils of rebellion and civil war. Has not the Catholic Association usurped the privileges of parliament and the prerogatives of the crown? Does it not impose taxes? Has it not marshalled the people in military array? Has it not created an order—the Order of Liberators? A very ominous name! and one which too plainly indicates very alarming designs!

Under such circumstances, while the most unbounded latitude is given to the advocates of the Roman Catholic cause to urge their pretensions by every mode of threat and intimidation, shall the men of Kent be told that they will incur the guilt of provoking civil war, if in a peaceful and legal manner they declare their resolution to support the authority of the laws and the constitution of their country?

The main argument on which the Roman Catholic advocates rely is, that however dangerous the principles of the Roman Catholic church may in former ages have been to the cause of civil and religious liberty, and the Protestant constitution established in these realms, those dangers are now passed by, and the apprehension of them become ridiculous—that the sentiments of the Roman Catholics are now enlightened and liberal, and that the charges of bigotry and intolerance are now only imputable to the Protestants.

Gentlemen, the alliance between popery and liberalism is no new event. Every one of the measures which cost James the Second his crown, were measures taken in the names of liberty of conscience, and the removal of political distinctions on account of religious differences; but our ancestors knew that, while he talked of toleration, his ultimate aim was really persecution; and,

at their utmost risk, and with a profuse expenditure of their blood and treasure, they achieved the Revolution, and established that system of Protestant laws and constitution, under which, for nearly a century and a half, this country has enjoyed a degree of religious toleration and civil freedom unknown in any other age or country.

It is true that, for the security of that constitution, laws of severe restriction were imposed on the Roman Catholics. That they were more necessary (in Ireland especially) than some are willing to allow, appeared from a circumstance which, for the first time, was brought to light, by the examinations of the committees of parliament in the year 1825; namely, that from the Revolution until the extinction of the house of Stuart, the Roman Catholic bishops of Ireland continued to be nominated by the representatives of that family—a circumstance which at once proves the great influence which they must have continued to retain in Ireland, and the dark and impenetrable secrecy with which the affairs of the Roman Catholic church have been managed in that country. During the reign of his late Majesty, the legislature judged (and in my opinion judged wisely as well as humanely) that circumstances were so much altered as to admit of the removal of such of those restrictions as either affected in any degree the observance of religious worship, the enjoyment of property, or the exercise of professions, except in a very few cases connected with political influence. The question is now—whether the sentiments of the Roman Catholics are so far changed as to allow of their complete admission to the exercise of all political rights equally with Protestant subjects.

It is always difficult to judge of the sentiments of bodies of men, because among individuals so many shades of difference are to be found; and there are, and always have been among persons of the Roman Catholic persuasion, many men of genuine piety and eminent virtue, and others in whom a sense of honor, or an inherent feeling of moral principle, has corrected the pernicious doctrines of a corrupt church; but the bulk of the people must be supposed to act on the tenets avowed by the principal ecclesiastical authorities, and on the subject a mass of authentic information has been laid before parliament, which has hitherto not attracted so much attention as it deserves.

Besides the important examinations which took place in 1825, a large body of information was collected by the Commissioners of Irish Education Inquiry; and I wish particularly to call your attention to their eighth report, which was printed by order of the House of Commons in June 1827.

¹ There is an able review of this report in the 74th number of the *Quarterly Review*, (published in March, 1828,) Article VII. p. 459.

The commissioners consisted of five gentlemen of the highest respectability, of whom one is a Roman Catholic, two others Protestants, favorable to the claims of the Roman Catholics, and the remaining two adverse to them. No suspicion of unfair prejudice can, therefore, attach to the commissioners; and they appear to have conducted their inquiries with the greatest diligence, intelligence, and impartiality. They published, in this eighth report, the examinations on oath of the president, professors, and some of the students of the Roman Catholic College of Maynooth, founded and chiefly supported by government, for the education of the Irish priesthood. There cannot, therefore, be a more authentic record of the avowed principles and sentiments of the Irish Roman Catholic priests, collected under the most favorable circumstances. The question will then be, to examine how far they have departed from those doctrines and principles which, in former times, are considered as dangerous to the security of government, and the preservation of the principles of morality and virtue among mankind.

I shall call your attention to only three instances, anxiously recommending the examinations at large to the careful consideration of such members of both Houses of Parliament as are favorable to the Roman Catholic cause, and to such other gentlemen as may be desirous of taking a complete view of this important subject.

I know no part of the history of the Roman Catholic church which has more justly excited the astonishment and indignation of mankind than the proceedings of Pope Innocent the Third, and the fourth Council of Lateran, which established the inquisition—preached the crusade against the Albigenses, in which historians compute that a million of persons of every age and sex were put to the sword—and declared that all princes who did not exterminate heretics in their dominions should be excommunicated and deposed.

The Rev. Dr. Crotty,¹ president of the college, and the Rev. Dr. Slevin,² prefect of the Dunboyne establishment in Maynooth, were examined as to the decree of the Council of Lateran. They coolly state, that as the council was composed of temporal as well as ecclesiastical authorities, they do not think the church answerable if there was any thing erroneous or blamable in its proceedings (though the pope presided and the council is known to have been only an instrument in his hands), but that they do not consider the deposing decree as now in force.

If any transaction could be worse than those of the Council of Lateran, it would be the treacherous and cruel execution of John

¹ Page 83.

² Page 241.

Huss, at the Council of Constance, after the safe conduct granted to him by the emperor, with the consent of the council. Here, indeed, Dr. Crotty is bolder,¹ for he justifies the council, on the ground that Huss merited his fate by attempting to escape when he found he was about to be burnt alive.

In these two instances I have only stated the sentiments of individuals, though it may be judged what an influence the sentiments of men in such situations must have over the minds of their pupils; and I do not refer to transactions of this remote date with any view of dwelling on their enormity, but it is highly important that the Protestants of this country should know in what light they are represented by the leading Roman Catholic divines of the present day, and especially those who are charged with the education of our fellow-subjects, and who, in their examination before the commissioners, must have been supposed to have spoken with as much caution and wish to avoid offence as a candid statement of their sentiments would admit, and who were allowed the fullest opportunity of revising and correcting their statements. But the next that I shall mention is taken from the Public Text-book of the Course of Divinity,² and is to be found in the examinations of the Rev. Dr. Anglade, the present professor of moral theology, and Dr. McHale, the late professor, now Bishop of Maronia.

I know no tenet ever imputed to the Roman Catholic church more destructive to morality and good faith among mankind, and of all confidence between rulers and their subjects, than the power claimed by the pope of dispensing with oaths.

In this Text-book it is distinctly laid down, that there is in the church a power of dispensing with oaths and vows, as well as sins; so that the people of England are taxed to the amount of nine or ten thousand pounds a year,³ for the purpose of maintaining professors to teach the Roman Catholics of Ireland, that in some cases a priest, in others a bishop, and in all the pope, can release them from their sins, their vows, and their oaths.

I shall perhaps be told that the Roman Catholic laity have no objection to renounce the dispensing power of the pope, and are ready to do it on oath—I have no doubt of this—for it is remarkable that Dr. Anglade and Dr. McHale have themselves set them the example; as all the officers and students of Maynooth are required to take an oath of allegiance, in which this dispensing power is disavowed in the strongest possible terms; and

¹ Page 88.

² Page 123—183.

³ In the year 1825, the total amount of the increase of the College of Maynooth was 10,600*l.* of which 9600*l.* arose from the parliamentary grant, and the remainder from estates and bequests.

it is not a little curious to observe, in some of the subsequent examinations, in what manner some of the members of the college express the scruples they have felt on this account. Leaving, however, these reverent doctors to settle this matter with their own consciences, or to obtain such dispensations as they may think most efficacious, I must mention a circumstance respecting Dr. M'Hale, which strongly illustrates the discipline of Maynooth.

There is a regulation of the college, that any officer or student who may write an anonymous letter, or publish any work or pamphlet, without the approbation of the presidents, shall be expelled. Dr. M'Hale, while professor of moral theology, published a series of letters, under the signature of Hierophilos, grossly reflecting on the Established Church. He presented his pamphlet to the president; and it was widely circulated among the professors and students. But was Dr. M'Hale expelled? No—he was continued in the professor's chair, and was shortly afterwards promoted to a bishopric. I do not mean from these circumstances, or from many others equally striking which might be collected from the reports, to infer that Maynooth College ought to be suppressed, or the parliamentary grant hastily withdrawn from it; but I do contend that too little vigilance has been exercised in the superintendence of the college, and a confidence much too implicit placed in its conductors; and that in particular it appears that a Jesuitical influence of a very suspicious kind has been allowed to establish itself there at different times.

Yet what task can be more important or delicate in its nature than that of forming the principles of men placed in the very peculiar situation of the Roman Catholic priests of Ireland—men of whom their partisans and admirers assert that on them exclusively repose the loyalty of Ireland and the peace of the empire, and that they rule the consciences and regulate the actions of seven millions of our fellow-subjects. Whether this number is exaggerated, and whether the proportion of the Protestants is (as I believe) falsely and injuriously diminished in these representations, is of no consequence to my argument.¹ On the contrary, the smaller the proportion of Protestants may be, the more they must need the protection and support of their fellow Protestants in England: we are, however, sometimes told that the power of the priests is only of a spiritual nature, and only exercised for the most beneficial purposes. Whether the right of election is a purely spiritual

¹ The best estimates laid before parliament in 1825 made the Roman Catholics amount to about 4,800,000, and the Protestants to about 1,900,000, of whom two-thirds were of the Established Church. The estimates of the Roman Catholic priests made their flocks about 5,500,000, and the Protestants about 1,600,000.

matter, I leave to the freeholders of Kent to judge; but we already know, that in the elections of Ireland the priests have begun to exercise a tremendous power. They have already, in two counties, defied the influence of property, and returned members avowedly as their mere creatures, and we are threatened that they will do so in all the counties in Ireland. That they have the power of doing so, if their influence over the forty-shilling freeholders is every where equally great, appears from a document printed by the House of Commons in 1816, and which I believe to be the latest that has appeared. In this paper the freeholders who had been registered in Ireland for some years before were divided into three classes; of fifty pounds a year, twenty pounds, and forty shillings. Of this last class the number returned was 177,000, while the aggregate of the two remaining classes amounted to no more than 25,000.¹ Those who have contended for the admission of Roman Catholics to parliament, have always represented the number likely to be returned as too inconsiderable to be of any importance; but how grossly they have deceived themselves, this document, combined with recent events, too plainly proves.

We are, however, told that the Roman Catholic laity, when once admitted to all political privileges, would throw off their bondage to the clergy, and only consider themselves as members of the state. I cannot, however, discover any instance in which they have shown a steady resolution to do so; nor can I conceive it possible, while they remain members of a religion, the very substance and essence of which consists in unlimited obedience to the church.

An able and indeed pathetic address has been largely circulated among you on behalf of the British Roman Catholics, signed by some of the most illustrious and ancient names among our nobility; but, I must confess, that the effect of this address on my mind was greatly weakened, when I observed that the British Catholic Association afterwards returned its thanks to the forty-shilling freeholders of Waterford for obeying the dictates of their priests, in opposition to the wishes of their landlords; and that, more lately, one of the most ancient of that body of nobility had just published a letter highly commending the forty-shilling freeholders of Clare for driving out a Protestant gentleman (though one of the ablest advocates of the Roman Catholic cause) from the representation of the county, for the purpose of returning a Roman Catholic demagogue; though they had every reason to believe that he could not legally take his seat; and thus attempting, either by intimidation or chicane (and I care not

¹ Journals of the House of Commons, vol. 70, p. 1058.

which it is) to establish a claim which has already been steadily rejected by the legislature.

One of the most common reproaches urged against the opponents of the Roman Catholic claims is, that we are now the only intolerant and persecuting nation remaining; and this sarcasm is repeated till some at least of those who use it must be supposed to believe it. They forget that in Spain and Portugal no Protestant is allowed to live, except a very limited toleration to foreigners—that in the new states of Spanish America, though admitting the most revolutionary systems of government, the principle of religious toleration has been uniformly rejected, and that even the right of sepulture was not long since refused to British officers—that in Piedmont the Protestants are confined to a few narrow mountain valleys, beyond which they are not allowed to possess property or exercise professions—that in other parts of Italy they are only tolerated by connivance; and that in these and all other Roman Catholic countries, without exception, the use of the Bible is denied to the laity by the ecclesiastical, and in most by the civil authorities.

It is indeed extraordinary how little even among the ecclesiastical students at the College of Maynooth, and the Jesuit seminary at Clongowes (respecting which there is some evidence in the report so often referred to), the Bible appears to be known; and it is notorious that the priests take away, under pain of excommunication, even the Roman Catholic version of the New Testament, if given to the laity.

There remain the instances, so much relied on, of Prussia, France, and Holland, where it is said that all citizens enjoy equal rights; and toleration, philanthropy and concord universally prevail. The government of Prussia is so different from our own (as having no legislative assembly), that no fair analogy can be drawn between them; but the state of religion in that country is understood to be any thing but satisfactory, notwithstanding the very laudable endeavors of the present king to introduce a better state of things.

In France, the Roman Catholic church had received such a shock from the events of the Revolution, that its power could not possibly be restored, and a principle of toleration unavoidably took place, notwithstanding the strenuous efforts of the late pope, who, at great personal risk, opposed Buonaparte's endeavors to introduce religious freedom.

But the state of France is so far from being one of religious peace and union, that it is easy to see the symptoms of a great religious struggle in that country, which may end in some tremendous convulsion.

It appears also from the Maynooth report, that the sentiments of the Roman Catholic church in France, even before the Revolution, are considered in Ireland as much too liberal.

In the kingdom of the Netherlands, the analogy with our government completely fails. Ours is a Protestant government, formed by the union of two Protestant kingdoms, having an established Protestant church in Ireland as well as in Great Britain, but containing a great number of Roman Catholics and Dissenters.

The kingdom of the Netherlands, on the contrary, is an union of two parts; in one of which the Protestant, and in the other the Roman Catholic, is the established religion. It was, therefore, impossible that they should unite on any other terms than those of religious equality, and a concordat was with much difficulty obtained from the pope, regulating the religious condition of the Roman Catholics.

By this concordat, the nomination of the Roman Catholic bishops was virtually placed in the hands of the king, though they were to receive investiture from the pope.

The king accordingly proceeded to nominate seven bishops to the vacant sees; but of the seven, the pope confirmed only the Bishop of Namur, and the other sees still remain vacant. We may judge from this example of the probability of a concordat for Ireland producing general union and tranquillity, even if it could be obtained on satisfactory terms; but we know that the Irish prelates in 1825 declared, before the Committees of both Houses of Parliament, their resolution to submit to any persecution rather than admit the interference of the government in their ecclesiastical appointments.

I cannot, therefore, augur favorably of the continuance of religious concord either in France or the Netherlands, though I sincerely desire it may prevail; not only because as a man and a Christian it is my duty to wish for the peace of other nations, but because any serious convulsion taking place in either of those countries could not fail to endanger our own. At any rate, these examples are much too recent, and the experience we can yet have of the settlement of those governments too short, to afford any safe precedent for an alteration of our own. Another assertion often made, and most assiduously insisted on of late, is, that the people of England are become favorable, or at least not hostile, to the Roman Catholic claims, and that it is now only a contemptible remnant of bigots who oppose them.

These bigots, however, comprise a considerable majority of the House of Peers, about an equality in the House of Commons, and a vast majority of the loyal, honest, intelligent, and indepen-

dent commonalty and yeomanry of England. Of this, the meeting on Penenden Heath was a striking illustration; but as I wish to prove every thing from Roman Catholic authorities, or those of their advocates, I shall cite one of the ablest and most constant of those advocates—the very mouthpiece and manifesto of liberalism—namely, the *Edinburgh Review*.

“The friends of the Catholics have, indeed, too long kept out of sight the real difficulty which impedes the progress of all measures for their relief. There has been a nervous reluctance, perhaps a natural unwillingness, to approach this subject: yet it is of the utmost importance that it should at least be fully understood. The difficulty, we believe, is neither with the King nor with the Cabinet—neither with the Commons nor with the Lords. It is with the people of England; and not with the corrupt, nor with the servile—not with the rude and uneducated—not with the dissolute and turbulent, but with the great body of the middling orders;—of those who live in comfort, and have received some instruction. Of the higher classes, the decided majority is, beyond all dispute, with the Catholics. The lower classes care nothing at all about the question. It is among those whose influence is generally exerted for the most salutary purposes—among those from whom liberal statesmen have, in general, received the strongest support—among those who feel the deepest detestation of oppression and corruption, that erroneous opinions on this subject are most frequent.”

It then proceeds to instruct the friends of the Catholics how to convert the people of England, and concludes with thus addressing them.

“But of this they may be fully assured, that, while the general feeling of the nation remains unchanged, a ministry which should stake its existence on the success of their claims, would ruin itself without benefiting them.”¹

I should only advert to one more statement of the advocates for emancipation. We are told that the bigots who oppose them are growing old and fast wearing out, and that the rising generation are universally favorable to the cause; and Mr. O’Connell has amused himself and his hearers by calculating in how many years no opponents of Catholic emancipation would be left. If it be so, why not let us die in peace? Surely it is worth while to wait a few years to obtain, with the general concurrence and approbation of the people of England, a change which could not now be effected without exciting the greatest disgust and apprehension in the minds of a vast proportion of them.

¹ *Edinburgh Review*, No. 91, June, 1827, p. 253.

But if it be otherwise, and if, as I hope and trust, our sons shall continue to be, as 'their' fathers and 'our' fathers have been, the staunch supporters and assertors of Protestant ascendancy, depend on it all efforts to shake that glorious cause will fail; and Penenden Heath will be again in future times, what it has so lately been, the scene of the triumph of the Protestant cause.

I beg leave to conclude by reminding you of the excellent advice of our noble lord-lieutenant, that whatever degree of irritation may have been excited by circumstances preceding or accompanying the meeting of yesterday, might be forgotten as soon as we left the Heath, and that the men of Kent would only remember each other as neighbors and friends. I sincerely trust it will be my happiness to meet every one of my brother freeholders, of whatever party, with whom society or business may bring me into intercourse, on those terms only, and I have the honor to be,

Gentlemen,

With the sincerest respect,

Your faithful and obedient servant,

BEXLEY.

Foot's Cray Place,
Oct. 25, 1828.

S P E E C H
or
THE MARQUIS OF WESTMEATH.
DELIVERED AT MULLINGAR,
ON THE 29th OF OCTOBER, 1828.
LONDON:—1828.

ON an occasion like the present, which is no common one, I think it is incumbent on me, in as few words as I am able, to express my sentiments. I should prefer being silent, being unused to public speaking; as indeed I should have preferred not to have attended, retirement being more suited to my disposition, if I were permitted to indulge in it, than to obtrude myself into public affairs—and especially in times like the present, when the best intentions may be misinterpreted. But when one's country is rent to the heart by dissension, and when that dissension may arrive at something worse, perhaps even a person who is unused to mixing himself in popular discussion ought to recollect he is a citizen, and that he should in such an extremity set forth to avow his opinions, while yet the voice of reason may not be wholly extinguished. The Union has left me no choice as to the manner in which this sort of call should be answered. The only opportunity which I have of meeting it in a befitting manner is, to appear here in the county of which I am a native, and to give my opinion as a Christian, a Protestant—and an Irishman, that the present state of disqualification in which the Roman Catholics are held, owing to their religious profession, produces a state of society which is perfectly intolerable, and if protracted, the miseries of it can only be appeased by a sort of crisis which no one who has an atom of consideration would not prefer, rather to make any experiment, than attempt to precipitate.—This is the result of every man's experience who lives in Ireland, and who is not either blinded by ignorance or bloated by selfishness. To none of these then should parliament be so misled as to attend. If this meeting, or meetings like it, can influence the legislature, the voice of truth will not be wanting to warn and inform it. I am certain there are multitudes of the Protestant persuasion, like myself, in Ireland, who think the world is capacious enough for us all, and who are not desirous of seeing that system con-

tinued, which has only served for centuries past to keep our common country in a state of suppressed civil war; and, for the little that is known of us on the continent, as a people, to render us insignificant and contemptible. I speak of course respecting the Irish nation as such; for, of individuals, even among the persecuted Catholics, who have been driven into the service of foreign countries, the splendor of the Irish character has always been conspicuous. It is perfectly unaccountable to me that any favorite theory can mislead any resident of this country, so far as to persuade him of the bare possibility of the penal laws on the Roman Catholics remaining unrepealed. It seems, to my humble comprehension, that supposing such a system defensible on any Christian principle, it is utterly impossible to continue it. The Roman Catholics have increased immensely in wealth, and, as we well know, in numbers also, since 1793, when the elective franchise was extended to them, and that their wishes and their ambition should be commanded, under those circumstances, to stand still, and that they should, as a body, be content under the existing inconsistent absurdities, is an experiment which has been made, and has got its answer. I am treating the subject in the most phlegmatic manner. I should not know how to arouse the passions of this assembly, if I were to attempt it; and, indeed, I think the only useful way to treat this subject is as a Protestant. To put it to the sober senses of those of our persuasion, whether any country on earth can prosper while a part of its inhabitants assume, no matter for what end or under what pretence, that it is expedient to lord it over their fellow-subjects, who are increasing in every thing which can be said to constitute power in every civilised nation on the face of the earth—population and wealth. This brings me very much to the pith of the contest. We have recently seen set on foot, in the sister kingdom, a self-constituted society, called a Brunswick club, and great pains taken to promote a similar one in this kingdom. The state of the Catholic claims, or the means taken to advance them, is the excuse on which these societies were originated, and the question taken for granted of an existing necessity to justify them. That the protracted discussion, for years, in parliament on the Catholic claims, and the repeated refusals to concede them, should have produced irritation, when it is not penal to complain, is natural. It is not difficult to see that any degree of boldness used by the Roman Catholics, in speaking of their disqualification, would have been displeasing to the Brunswickers; because with a boldness which I should designate bravery, if its authors had experienced themselves what they seem so anxious to precipitate amongst us, they refer, in stubborn language, to 1688, as the golden period by

which all future ages, while the British empire may subsist, must conform. No circumstance which the fluctuation of human affairs can produce is, in their minds, to vary the policy now, which was then expedient. Among the infinite and insensible revolutions which the state of society in Great Britain has since undergone, untraced by their sapient heads; but of the advantages of which they, nevertheless, must partake, may have been usefully buried, except the rule which in 1688, or at a period not long subsequent, consigned to the infernal penal code the destinies of a whole people.—Of a whole people, I repeat; for the Protestants were then but a handful, and they were hardly to be called or considered the natives of Ireland, as the pale had then but hardly burst its limits. The regulations of these Brunswick clubs remind me of nothing so much as a man who was made to appear in a farce as if he had arrived in London just when it was lighted first by gas, and after being almost for near a century complaining that that invention had broken in on the darkness which the citizens had a right to be permitted to enjoy as a prerogative of right. Complaining also that the fine River Thames had been choked up by the mass of stones thrown in, under the pretence of making bridges; and he was heart-broken to see that the streets were not resorted to the same comfortable, neighborly state, he said, they were in before the great fire in London, in 1666, when friends could shake hands out of the opposite windows, but that now people were perished by the currents of cold in the immense funnels miscalled streets. As well might the Brunswickers have issued their manifesto against inoculation or navigation by steam, as to persist in holding these kingdoms to a certain line of policy with respect to the Roman Catholics, on the reasoning they use, that such were the laws in 1688, or the reign of Queen Anne, and that such they must continue. I am not afraid that all this swaggering, and the fiery zeal by which it is at the moment kept alive, will dictate to parliament. Absurdity floats on the very surface of such ultimate violence; but besides that, the mode of fanning the flame has transpired in a police report in rather an amusing manner. Bills were in circulation in one place, where the people were especially asked if they were asleep? A happy way of proving the case against themselves, and that the apathy of the people required the holy Brunswicker crusaders to arouse them. I am not afraid that any man, however commanding his individual situation may be, can, on a great vital question like the present, give the tone to a nation instead of receiving it from the nation; and with respect to those persons who have in this country stood forward to be the leaders of the Brunswickers, it is not worth while to trouble ourselves about them. The English

people now know how this country has been for centuries ruled and treated; notwithstanding all the pains taken to conceal it, they know the truth, and the English people are too sound-thinking to permit a continuance of injustice to be exercised towards this country as hitherto; nor are they disposed to pay for a large army, to pamper the privileged few who have bloated themselves on the fat of the land, since the Protestant ascendancy has been the stalking-horse of a faction. I am a Protestant, who will not yield in attachment to the doctrines of the Reformed Church with the best of them; but I can discriminate between what is plainly nothing more than the selfish interest of individuals, and the doctrines of that religion, which means nothing in our religion, if it does not mean that "we should do as we are done by." I do not mean to speak slightly of many of the Protestants who have followed the track of the Brunswickers in Ireland. The degree of re-action on the part of the Catholics, owing to their existing disqualifications, has been strongly marked, and, I do not doubt, has alarmed many a Protestant even for his own individual security; and it is on such fears that the Brunswickers have relied for their help and continuance in this distracted country. Who, or what are we to charge for this? Why, misgovernment. And that misgovernment is the same, whether it proceeds from the legislature or the executive. Ought it not to give the irreconcilable and unreasoning opponents of the Catholic claims some degree of diffidence on the subject, when it is recollected how many of the greatest statesmen England ever possessed have advocated concession on general grounds of policy—Mr. Fox, Mr. Pitt, Lord Grenville, Lord Grey, Lord Londonderry, Mr. Brougham, Mr. Grattan, Lord Plunkett, and many others. I confess it so operated on me, and was the first cause that brought me to change my opinion on the subject, by leading me from particulars to generals; and experience has since convinced me—the experience of many years' residence in Ireland—that this country can never be sincerely united to Great Britain unless the legislature shall leave all religious matters within it to find their own level. It is in this view I regard it as a Protestant question as much as a Catholic one—as a British question as much as an Irish one. I cannot conclude without urging the Roman Catholic body to remain in a constitutional attitude, seeking to attain their just rights. I am convinced no more is necessary. Remember we have a lord-lieutenant, who, I am convinced, is most sincerely desirous of seeing the administration of Ireland conducted with the strictest impartiality, and whom, on my soul, I am persuaded has never had an interested thought with respect to his public duty since he landed in this country. I would not

say what I do not think; and I say it now, because on this head the Roman Catholics have no cause for complaint—at least in my judgment. Not a single individual on either side of the water has so much as bestowed a smile of approbation on the Brunswickers; and therefore much of what we all remember in the shape of offensive and irritating sentiments, and which used to be thought the exclusive body of loyalty in this country, are wholly removed. One word for myself. I have as good a right to get credit for a sincere attachment to this country and its best interests as any other man; and I most conscientiously declare, before God and the country, that I am convinced Ireland can never have peace until the penal code and every trace of it shall be effaced from the statute-book.

LORD TEYNHAM

TO THE FREEHOLDERS OF THE COUNTY OF KENT.

LONDON :—1838.

MEN OF KENT AND BROTHER FREEHOLDERS,

DR. HODGSON, of Tunstal, has called on me, I am informed, in the face of the county, to declare why I have changed the sentiments I have hitherto held on the subject of Catholic emancipation. I have the greatest regard for the reverend gentleman, and think him an ornament to his profession. If I had heard him, or could have made myself heard in such an extended assembly, I should have answered him on the spot. I trust, therefore, this public appeal will not be considered either obtrusive or useless by the men of Kent. I am proud to say, I have not, nor ever will, be guilty of any inconsistency in my public conduct whatever—a conduct for which I am most desirous of obtaining your approbation, because I consider myself as one of the ancient barons of this county—the responsive voice of its sentiments and feelings in my seat in parliament—and there is no cause I would so resolutely advocate there as one in which either the sentiments, feelings, or interest of this great county was concerned. Men of Kent, from choice and from inclination I am a sincere Protestant of the Church of England; my family are all brought up in the same sentiments. I have never changed or deviated from that path. I firmly support the Church of England, and am conscious of the value of its connexion with the state, as thereby civil and religious liberty is dispensed to all the subjects of this great empire. Permit me to add here, that my ancestors, from the earliest records of your history, have commanded your armies in the field, and held the most important offices in your county. And that either against the Norman invader, or on the walls of Acre and Ptolemais, or in the battles of Cressy and Agincourt, was ever the white cross of the De Cheney's or Apulderfelds, or the lion of the Ropers, separated from the blue banner of Kent, and its proud Invicta? Base indeed must my mind be, if such very proud recollections did not inspire me with the wish to merit

your approbation, and to thus vindicate myself from aspersions by those whose ancestors would have been happy to find a seat in the halls of my forefathers, and to have held the stirrup as they mounted their prancing war-horse. I married also a fair maid of Kent, whose fame shone in the deeds of her fathers, and the valor of the Hawkins gained the arms of France, her fleur-de-lis, as their inheritance. Their names flourished for a thousand years in your county, and the last of them now sleeps with his fathers in their chancel of Boughton Church, the bold knight-bannerets of the Edwards and Henrys.

I am, therefore, connected with your county in every possible way, and must repel, with proud defiance, the assertions of men returning from the plundered thrones of the princes of Indostan, where the recording angel is tired with writing down the crimes of Britons. That I am an alien and a stranger amongst you. No; I am a man of Kent in heart and hand, and envy them not those lands their ill-got treasure have purchased in your county. I feel, men of Kent, that you will excuse me these expressions, as I will yield to no man in my attachment to my country, to the Protestant cause, and to the honor and welfare of your distinguished county. I have in my seat in parliament hitherto opposed Catholic emancipation, because I saw no securities offered for the protection of the Established Church; and I was one of the most active in passing the Act to put down that, then alarming, political club, the Catholic Association. Your noble lord-lieutenant, the Marquis Camden, joined most cordially in that object: though, perhaps, more anxious than any other peer to settle the Catholic question, because his great experience in the government of Ireland taught him to consider it the only remedy to pacify that most valuable portion of your empire, his truly disinterested conduct in relinquishing one of the largest sinecures ever held, his sentiments and esteem for the great county he governs as the King's lieutenant, ought to have spared him the insults he met with on the Heath, and the epithets that have been so unsparingly bestowed on him; but, like Scipio, he may repose in the conscious rectitude of his own mind, and lament that any cause should have raised such unmerited feelings against him. This Bill could not, or did not, effectually put down this Association. They have now usurped the government of Ireland, and most completely changed the face of affairs between the two kingdoms. All the real powers of government are in their hands. Their rent is a military chest; they have organised the six millions of Catholics, appointed captains and controllers over them, and have engaged the whole of their most influential clergy in the same cause. Foreign nations are also taking a deep interest in this lamentable cause.

Fifty thousand Irishmen in the United States of America, possessed of wealth and power, are eager to join and assist them. France looks on with anxious eyes—her press teems with pamphlets pointing out the means by which Ireland can assert her independence and become a free nation, and the naval and military preparations of her government show sufficiently their intention to take a part the moment the green flag is hoisted. Dunkirk is now fitting with cannon and warlike stores, and if you do not pacify Ireland, every effort will be made to rescue her from the British power and dominion. Russia also, and at no distant day the northern states, will hurl defiance at you, because your forces are all engaged in securing your ascendancy in Ireland. And the numerous and able petitions from your county, men of Kent, presented to parliament during the last two sessions, by myself and other peers, sufficiently attest you are alive to the awful internal state of your country; you have stated that an overwhelming debt has destroyed the bold peasantry and the yeomen of olden times; that your enormous jails are now filled with criminals, your poor-houses and work-houses with paupers, victims to excise laws and excessive taxation; that your farms are worse cultivated, and your property on them deteriorated; and that the landlord has a bowstring around his neck extended and drawn at the two ends—first, by the necessity of paying the dividends and public expenditure, amounting nearly to sixty millions annually—secondly, by the poor-rates operating against enabling him so to do, by counterbalancing any rise in the value of corn and provisions. Turn again to Ireland. Even without a civil war, has not the election for the county of Clare proved that the representation of Ireland is in the hands of the Catholics? They will return eighty members to the next parliament. Will you allow them to sit? If you do not, the Union will be virtually dissolved, and Ireland must be governed by a severe military despotism, as in the times of Cromwell and his cruel generals, if such an event were possible. On a review of these circumstances, were Lord Liverpool able to take a part in the councils of his country, he would say, the time is come to pacify Ireland, to restore the Roman Catholics to their civil rights, taking care to give the best possible securities to the Protestant establishments of the empire. So, I am confident, thinks the Noble Duke who is now at the head of his Majesty's government. So, I firmly believe, thinks the Sovereign of the country himself. So, in last session, thought a majority of the House of Commons, amongst them your county member, Mr. Honeywood, ever, in all your contested elections, placed at the head of the poll, with his high mind and character, if he thought for a moment that a majority of

his constituents would risk a civil war, bankruptcy, and the final separation of the two sister islands, for fear of the imaginary evils and apprehensions from popery in the present times, without a moment's deliberation his trust would be laid at your feet; his vote never yet caused this county to blush; and the Commons of England have ever considered him one of their most upright members. So also thinks a gallant youth whom the intelligent freedom of Canterbury send as their representative; and from the high principles and patriotic feelings of the noble house of Darnley, would Lord Clifton hold his seat one hour if he thought he spoke and voted against the sense of those independent men who sent him there?

So thought about one hundred members of the House of Peers last session—the highest in rank, the greatest in talent, the purest in patriotism, and the richest in landed possessions. So thought one-third of the University of Oxford when the petition against those claims was last discussed in convocation. So thinks Mr. Dawson, the friend and brother of Mr. Peel, the great opponent of these claims. So thinks Mr. Peel himself, for his silence in his late tour in Lancashire bears no other construction. So thinks, by a declaration I have just seen, a large majority of the Protestant peers, baronets, and landed proprietors of Ireland. Permit me therefore to think, brother freeholders, here are sufficient reasons to induce me to think also that the time is now come that makes it just, expedient, and necessary, to grant Catholic emancipation. We are not changed, but the times are changed—*tempora mutantur, et neve mutamur in illis*. The safety of our common country, the integrity of the empire, its ability to defend its colonies, its power to pay the public creditor, nay, even its means to prevent famine, and ultimately pestilence, from stalking throughout the land, all, all, my friends, depend on conciliating Ireland, and healing her wounded feelings, and bringing her ardent, her gallant, her enthusiastic sons once more to your bosoms, and to a real union of pride, glory, and satisfaction in their common country.

Freeholders of Kent—Deeply did I lament the very mistaken infatuation of many noble, able, and honorable characters who met at Maidstone to proclaim a Brunswick or an Orange club in this county. The result of its establishment must be to embarrass the government in this great work, to create party feuds, and raise animosities in this now happy and sociable county; it is the use of clubs that has actually brought Ireland to its present state, and, depend on it, that the authors of these clubs will have to rue the day that they established them in England. An appeal to the county on Catholic emancipation was made; and in my humble opinion the petition that was so triumphantly carried at Penenden

Heath was any thing but an approval of those clubs ; its language is moderate, and it scarcely conveys an intimation against Catholic emancipation. The great exertions made by the victorious party were not met by the opponents of the measure by any similar means—therefore the Brunswickers triumphed ; but, like Pyrrhus, regardless of the consequences of their victory.

The *poll* now on the same spot must tell what is the *real* sense of the county of Kent on this question. The county of Kent can never again lay claim to character or consistency if it continues to send one member to parliament to support a measure, and another to oppose it.

Pardon me the observations, my friends and brothers. You would all, in my place, feel the same sentiments. I trust I have vindicated myself, that I do not deserve the taunts that have been thrown on me ; and I conclude by feeling convinced that you will believe that no freeholder of this county will exert himself *more* than I shall in my place in parliament, to secure the ascendancy of the Protestant principles of these kingdoms. When these measures are arranged, and *they must be arranged* this next session, that will provide for the extension of civil rights to the seven millions of the Catholic inhabitants of the United Empire.

With every sentiment of respect,

I remain, brother freeholders,

Your very obedient servant,

TEYNHAM.

Tunbridge Wells, Oct. 28.

CONSIDERATIONS

ON THE

INCREASE OF CRIME,

AND THE DEGREE OF ITS EXTENT,

THE PRINCIPAL CAUSES OF SUCH INCREASE, AND THE MOST
LIKELY MEANS FOR THE PREVENTION OR MITIGATION
OF THIS PUBLIC CALAMITY.

ADDRESSED TO

THE MAGISTRACY OF THE COUNTY OF SURREY,

IN THE FORM OF A REPORT,

By **RANDLE JACKSON, Esq.**

A MAGISTRATE OF THAT COUNTY,

LONDON:—1828.

GENTLEMEN,

SOME of our brother magistrates having expressed a wish that the facts contained in this Report should appear in print, I readily obey the intimation.

You are aware, that in order to suit its reading to the short space of time which it is supposed can be spared from the routine of local business on the county day, it was considerably shortened by the Committee, who transferred part of the text to the Appendix, omitted some of the remedial propositions, wholly left out the arguments adduced in support of others, and dispensed with certain extracts from public papers.

Presuming on your present comparative degree of leisure, and regarding such extracts, remedial suggestions, and arguments, as essential to the support of those resolutions which you were pleased to adopt on my motion at the Epiphany sessions, I have restored this draft Report to the order in which I presented it, through Mr. Lawson, to the Committee, myself being too indisposed to attend. Respectfully submitting it to your consideration,

I have the honor to remain,

Gentlemen,

Your faithful and obedient servant,

RANDLE JACKSON.

*North Brixton,
24th April, 1828.*

SURREY TO WIT.—*At the General Quarter Session of the Peace of our Sovereign Lord the King, holden at Saint Mary, Newington, in and for the County of Surrey, on Tuesday, the 15th day of January, in the year 1828 :*

IT IS RESOLVED, That this Court regards with great concern the alarming increase of crime within its jurisdiction, particularly the crimes of burglary, housebreaking, and street-robbery, which in many instances have been committed with confederated strength, and in a manner so open, violent, and atrocious, as to have placed the persons and property of the inhabitants of this county in a state of insecurity, demanding the immediate attention of the magistracy, and of all persons in authority.

It is ordered by this Court, that a committee be formed, consisting of the chairman of the session, the representatives in parliament for this county, and Sir Richard Frederick, Sir Thomas Turton, Barts., George Holme Sumner, James Trotter, Thomas Page, Samuel Thornton, Randle Jackson, Francis Wightwick, Henry Drummond, Benjamin Barnard, Robert Hudson, William Crawford, William Speer, John Spicer, Edgell Wyatt Edgell, John Ivatt Briscoe, Thomas Lett, Charles Hampden Turner, Launcelot Baugh Allen, Robert Joseph Chambers, Thomas Gaitskell, John Woolley, Robert Hedger, Maurice Swabey, Joseph Terry Hone, Esquires, and George Walton Ouston and John Courtney, clerks, to take into their consideration, from time to time, as occasion may require, the state of the police of the county, and such matters as they shall think connected therewith, and to report their opinion to the session.

It is further ordered, That it be an instruction to the said Committee to take into their early consideration the expediency of establishing a local preventive police, in such parishes of this county as may be willing to adopt that mode of protection.

It is resolved, That this Court will at all times be ready to attend to communications from government, and will, to the best of its power, contribute its aid to the protection of his Majesty's subjects, both as to their persons and property ; and

It is ordered by this Court, That William Joseph Denison and Charles Nicholas Palmer, Esquires, the representatives in parliament for this county, be, and they are hereby requested to present a copy of the foregoing resolutions and orders to his Majesty's secretary of state for the home department, and to give their support to any bill which may be brought into parliament for the remedy of these evils.

Lastly, it is ordered, That the chairman of this session be, and

he is hereby requested to send a copy of the foregoing resolutions and orders to the lord mayor of the city of London, and to the chairman of the quarter-sessions for the counties of Middlesex, Kent, Essex, and Sussex.

By the Court,
LAWSON.

REPORT.

YOUR Committee, in considering the matter referred to them, namely, the alarming increase of crime within this county, propose to direct their attention to the following propositions; namely—

1. The fact of the alleged increase of crime, and the degree of its extent.
2. The causes of such increase.
3. The most likely means to prevent or mitigate this growing calamity.

Under the latter head, your Committee will consider a measure which, in their opinion, exceeds in importance all others connected with this subject, and respecting which they feel bound to declare their firm conviction, that without its adoption they utterly despair of any material qualification of the evil so generally deplored: they mean, the permanent removal of the persons of the offenders from the United Kingdom.

With regard to the fact of an increase of crime, your Committee apprehend it to be too notorious to call on them to enter into much proof. Scarcely an individual of your Committee but has had cause, on account of himself or friends, to lament the want of that security for person and property, which is the legitimate end of all government, and to obtain which the subjects of this country contribute so large a proportion of their respective means. Your Committee will, however, refer to a few public statements, in order to afford some idea of the extent of such increase.

The *convictions* in England and Wales, according to a statement of Sir Eardley Wilmot, a magistrate of the county of Warwick, were as follows; viz.

In 1810 3158

1826 11,095

making an increase in sixteen years of nearly 300 per cent.

According to an account lately published in the daily papers, the *commitments* to Newgate were,

In 1824	2166
1825	2384
1826	2951
1827	3020

showing an increase of nearly 50 per cent in four years!

It appears from the Report of a Select Committee of the House of Commons, presented so recently as last June, that the *commitments* for trial in England and Wales, from 1806 to 1826, were,

In 1806	4346
1816	9091
1826	16,147

being an increase in twenty years of above 300 per cent.

This cannot be accounted for by any proportionate increase of population, as is sometimes supposed, the same report giving the following account of the increase of population for twenty years; viz.

In 1801	8,872,986
1811	10,150,615
1821	11,977,663

thus showing an increase in the population of about 35 per cent, in the same term of years that crime increased in the proportion of above 275 per cent!! This frightful disparity seems to be confirmed by the evidence taken before that Committee; one of whom, the Rev. Dr. Hunt, presents a calculation, founded on the return of commitments to the county jail of Bedford, showing that "the population of the county of Bedford had increased to the amount of 40 per cent, while, during the same period, crime had increased tenfold, or 900 per cent." Thus it will be seen, that whether *convictions* or *commitments* are considered, nearly the same afflicting ratio seems to prevail.

The return of the county of Surrey, it is true, exhibits an infinitely less proportion in the increase of commitments for crime, than any other document which has come before your Committee. From this account it appears that the number of such commitments were,

In 1821	2518
1827	2482

making only an increase of 169 in six years! Your Committee cannot, however, conceal the prevalence of an opinion, that, owing to certain circumstances, more impunity for crime exists, and fewer apprehensions take place, in proportion to the number of offenders, in Southwark and its neighborhood, than in any other

district of the metropolis. This, indeed, will become self-evident, when your Committee state, from the information of one of the magistrates of Union Hall, that "they have but twelve constables, six of whom are necessarily occupied in the usual business of the office, leaving but six disposable officers under their control for the prevention of felony and robbery, over a district of twenty-seven miles in circumference, and containing a population of 300,000 persons!"

Your Committee need not observe, that six officers, however vigilant, must be wholly unequal to the care of such a district; but they doubt the possibility even of one office being able to discharge the various and complicated duties arising from so considerable a neighborhood, and so crowded a population. Whether this great district be committed to one or more offices, it seems to your Committee to be of great importance, that a uniformity of adjudication, and an intimate knowledge of each other's proceedings, in order to a conjunctive employment of their strength, should prevail throughout all the offices charged with the care of the metropolis and its environs. Be this as it may, the Surrey return presents a proportion of juvenile criminals which is perfectly appalling. It appears that, out of the aggregate of 16,427 commitments within the last seven years, 7292 were under twenty years of age; of whom 370 were under twelve, and several of those, as must be known to the visiting magistrates, were not more than eight or ten years of age!

Causes of the Increase of Crime.

Your Committee proceed, in the *second place*, to offer their opinion as to the prominent causes of the increase of crime. Those causes will be found to differ much in degree; and although several of them will point out their own remedies, your Committee will defer the consideration of those remedies until they shall come to their third or remedial proposition.

Among such causes your Committee rank the following; namely—

The almost unchecked parading of the streets by the notoriously dissolute and abandoned of both sexes.

The multitude of gin-shops.

The want of due control over public-houses.

The existence of *unlicensed* wine-rooms, flash-houses, and other receptacles for known thieves and loose women.

Public fairs in London and its immediate neighborhood.

The utter fearlessness of punishment on the part of offenders.

And above all, the constant and daily addition of expert and

hardened criminals, who are in a state of continual return, from short transportations from the Hulks, the Penitentiary, and from jails and houses of correction.

Your Committee will trouble the Court with a few observations on each of these heads, taking them in order.

Without inquiring at this moment into the different laws respecting vagrancy, or into those rules of construction which constitute the reputed thief, it is enough for your Committee to observe, that, in point of fact, the streets are greatly infested by the dissolute of both sexes, and of all ages, but more particularly by very young persons, whose apprehension would not perhaps be strictly legal, were even any material degree of vigilance exercised with regard to the streets. Of these, the female part are constantly on the alert for the enticement of the unwary, while the males are as earnestly watchful for the means of pilfering and robbery. Your Committee have been informed, that a great number of boys and girls are sent out every day to get money, no matter by what means, so they bring home a certain amount, at night, on which depends the reward or displeasure they meet with on their return. Until such practices can be put down, and the streets be comparatively cleared of the disorderly and the criminal, each day must add to the already overwhelming stock of offenders, and increase danger to the public.

The next great cause and source of crime is, in the opinion of your Committee, the institution of gin-shops. There are few evils against which society has more loudly exclaimed, than against these means of encouraging the excessive use of gin and other spirituous liquors; though it is now many years since any attempt has been made by the constituted authorities to decrease their number or to check the consumption of the article. Your Committee annex two reports, which were presented to the quarter sessions on the 9th January, 1816, and on the 14th June, 1817, to which they beg leave to call the attention of the Court. It will be found that the Committee to whom the subject was referred performed their duty with no ordinary degree of zeal and labor. After travelling through all the mutations of law and fact regarding this moral pestilence, as it was then denominated, from the acts of Charles II. to those of George III., and tracing the various provisions for its cure, of high duties and low duties of high-priced licenses and low-priced licenses, varying from 50 to twenty shillings; of penal denunciations, from the pecuniary mulct, to whipping, imprisonment, and transportation; and after perusing the strong but vain memorials presented from time to time to government and the legislature, by different public bodies, among whom were the College of Physicians and the grand jury

of London, Middlesex, and the Tower Hamlets, who beheld this wide-spreading bodily and mental ruin with shame and sorrow; the Committee resolved, "that, in their opinion, the best and safest course would be, to adhere literally to the rule laid down by parliament, and resolutely refuse to grant or renew licenses, but to such publicans as should *bona-fide* keep *virtualling-houses*, *inns*, *coffee-houses*, and *ale-houses*; meaning thereby such as should have fit and comfortable accommodations for those who might prefer drinking of beer to spirituous liquors, and who should keep a stock suitable to the supply of customers of that description."

The quarter-sessions, as will be seen, was pleased to ratify and confirm these reports, and to recommend to magistrates in their respective divisions to adopt the most effectual means of carrying them into execution: adding, by way of special resolution, "that notice be given to all licensed victuallers in this county, of the determination of the magistrates not to grant or renew any certificate for license, but to such persons only as shall *bona-fide* keep *taverns*, *inns*, *coffee-houses*, or *ale-houses*, as directed by the Act of the 16th Geo. II. cap. 8, and who have sufficient room and accommodation for those who choose to drink beer, with a stock suitable to the supply of such customers."

What proportion of moral evil, or of popular demoralisation, might have been prevented had these reports been acted on, it is not for your Committee to say. It has, however, been their melancholy duty to observe, that since the period in question, crime has increased in the inordinate degree above stated.

With regard to *public-houses*, your Committee beg leave to remind the Court, that as the law now stands, the licensing magistrates have no power to remove a landlord or shut up a house during the time for which it is licensed; and that, in consequence of this security, many publicans are known to harbor the worst company, though to them the best customers, and to allow such a course of vitiating licentiousness, as cannot but corrupt the youth of both sexes, and greatly add to the number of criminals.

There is one particular evil which your Committee lament the want of legal authority in the magistrates to prevent, namely, the allowing of public-houses in Southwark, and in the immediate neighborhood of the metropolis, to open on the Sabbath-day before the conclusion of the morning-service. The present practice is for the publican to open his house at day-light, and to shut up at the commencement of and during divine service. Nothing is more notorious, than that great numbers of artificers, servants, and others, resort to such houses at a very early hour on the

Sunday morning, where they remain drinking until the last toll of the bell for church, when the landlord ejects them for his own sake, and generally in such a state of drunkenness, as to make it obvious that they must have spent as much money in this wretched way as would have bought their families a comfortable dinner. Thus prepared for every thing that is bad, the Court may easily conjecture how the remainder of the Sabbath is spent by such persons, and will readily concur with its Committee, in regarding the want of due authority over the licensed publicans, as among the causes of increasing crime.

The consequences of *unlicensed wine-rooms*, *flash-houses*, and other receptacles for known thieves and prostitutes, are too obvious to call for remark. Your Committee can only lament that such things are: observing, with regard to *unlicensed wine-rooms*, that they continue, in open and avowed defiance of the police, employing singing men and singing women to allure customers and increase consumption. Without offering an opinion, whether the non-suppression of such houses arises from the want of authority in the police magistrates, or from indisposition to exercise it, your Committee feel bound to declare their belief, that they greatly contribute to the increase of crime.

With regard to *fairs* held in London and its immediate neighborhood, it is when they are not under the vigilant and effectual superintendence of the police, that your Committee mean to say they generate crime, in a more extensive and rapid degree than almost any other periodical occurrence.

Your Committee enter on the two last causes to which they impute the increase of crime, with a deep sense of the importance of the inquiry, and a most unfeigned anxiety not to offer any opinions to the Court, but such as are borne out by known public facts or by the records of the country.

The chances of a criminal escaping from the only punishment which he seriously regards are known to be so numerous, as almost to justify his sanguine calculations, that it will never fall to his lot to suffer the extreme rigor of the law. (1w

Out of an immense calendar presented every six weeks for trial at the Old Bailey, and the numerous capital convictions which follow, the very small number that are ordered for execution, and the frequent remission of sentence even to a part of them, it is feared, leads to those flattering conclusions which encourage crime, by disarming the law of its terrors. (1w

Your Committee beg leave solemnly to protest against the supposition, that they are advocates for more frequent capital punishment. It is not for them to deal out the awful issues of life and death; but they are bold to aver their decided conviction,

that punishments less in degree, if they were certain in their nature and speedy in their execution, would be infinitely more efficacious in deterring from crime.

Your Committee have spoken of death, as the only punishment which the criminal seriously regards.

Respecting transportation, the punishment next in degree, they will appeal to facts. Whatever terrors may formerly have existed of *transportation* to New South Wales, they have long ceased to deter from crime.

In the instructions given by Earl Bathurst to John Thomas Rigge, Esq. on his proceeding to New South Wales, dated so far back as the 6th of January, 1819, and printed by order of the House of Commons, his lordship says: "Many circumstances have since concurred (alluding to the infancy of the settlement) to render the punishment lighter in itself, to diminish the apprehension entertained in this country of its severity, and to break down all proportion between the punishment and the crime for which it is now inflicted." In another paragraph of the same instructions his lordship observes, "that numerous applications are made from those who are sentenced to imprisonment for minor transgressions, that they may be allowed to participate in the punishment to which the greatest offenders are condemned."

According to subsequent accounts, which state the surprising advances which have been made by that colony in commerce, wealth, and civilisation, your Committee have reason to think that transportation to New South Wales continues to be an object of desire, rather than of dread, with a great proportion of the convicts.

But were it otherwise, the Court will see how little comparative risk those who really dread banishment beyond the seas have, for some years past, run of experiencing that fate.

Your Committee annex "A return of the number of persons sentenced to transportation at the assizes and sessions for the County of Surrey, within the last seven years, distinguishing for what terms they were so sentenced."

From this account it appears, that in seven years, namely, from 1821 to 1827, the total number sentenced for transportation were 1907. Of these, according to information obtained from the Secretary of State's Office, not more than about two-thirds were actually transported: the rest had their sentences commuted for different terms of imprisonment on board the Hulks, at the Penitentiary, the houses of correction, &c., where, it is understood, the term of confinement seldom exceeds from three to four years.

To show how lightly imprisonment in the county jail or houses of

correction is regarded, notwithstanding that to imprisonment in the latter is added the employ of the tread-wheel, your Committee subjoin "An account of the number of *recommitments* to the several prisons in the county of Surrey in each year, from January 1823 to December 1827, distinguishing sex and age, and how many times each person has been committed."

From this account it appears, that in five years there were no less than 2009 instances of *recommitments*. The account does not quote a higher number than *six* recommitments, though it is known to your Committee that several have been recommitted to the tread-mill at Brixton, from that number up to as many as nineteen times.

It is on such premises that your Committee confidently submit to the Court, that the escape from capital punishment, of which the criminal assures himself, and the comparative insignificance of all other punishments known to the administration of British law, constitute that hardihood and fearlessness as to the consequences of detection, to which your Committee cannot but impute, among other causes, the increase of crime.

Lastly, your Committee beg leave to call the attention of the Court to that vast addition to the mass of crime which arises from the almost daily discharge of criminals whose sentences have been remitted, or whose terms of imprisonment have expired at the Hulks, the Penitentiary, the jails and houses of correction. Great as is the encouragement held out to reform, and infinite as are the pains taken to produce it, by the regulations of your prisons, by the zeal of your officers, and by the efforts of pious and worthy individuals, your Committee cannot conceal from themselves that there are very few of the discharged prisoners who do not return to their unlawful courses. When to this consideration is added the swarm of incipients before noticed, with the attendant incitements of gin-shops, licentious publicans, flash houses, and the almost uncontrolled dominion of the streets, is it surprising that a feeble police should frequently crouch before ferocious gangs of robbers, that the persons of passengers should be so frequently surrounded, assaulted, and plundered, or that the dwellings of the inhabitants of this county should be rendered insecure, and have become exposed to such continual danger from burglars and housebreakers, as to have induced the imposition of that duty which your Committee is humbly endeavoring to discharge?

The most likely means to prevent or lessen the Increase of Crime.

Your Committee, in approaching the third and last proposition which they proposed to discuss, namely, "the most likely means

to prevent or lessen the increase of crime," acknowledge themselves to do so with the utmost diffidence. They are aware that it may be deemed presumptuous in them, who are not members of the government, and but few of whom are legislators, to suggest new laws to those who have such superior means of judging of any change of system which the interests of the public may seem to require; yet, regarding the delivery of their frank opinion on this part of the subject to be implied in their instructions, they will proceed, in full reliance on the Court's indulgence.

Referring to their former observation, that several of the assigned causes for the increase of crime would point out their own remedies, your Committee will detain the Court as shortly as possible where such is obviously the case.

As far as the state of the streets contribute to crime, it can only be counteracted by a vigilant and efficient police, removing from them the openly abandoned of both sexes. To accomplish this, it might perhaps require some further legislative interference, or exposition of the law respecting vagrants and reputed thieves, strictly to justify their apprehension, as well as a much more efficient night and day patrol than exists at present. But when apprehended, whither, alas! would you send them? As the law stands at present, after a few short weeks of maintenance at the expense of the county, they return, for ever branded with infamy, cut off from all hope of employment, advanced in the knowledge of every thing that is bad and wicked, and left with scarce any alternative but plunder or starvation.

On that source and nurse of crime, the multitude of gin-shops, your Committee can say no more, than that they concur in the opinion of a former Committee, whose reports stand in the Appendix as ratified and confirmed by the sessions; and believe with them, that there is no hope of relief, but by limiting the sale of gin, and other spirituous liquors, to the *bona-fide* keepers of *taverns, inns, coffee-houses, and ale-houses*, as directed by the 16th Geo. II. cap. 8, and to such of them only as shall have sufficient accommodations and stock of good malt liquor for those who prefer drinking it, and who, instead of the present gin-closets in alleys and obscure places, will confine the sale of spirits to a tap-room of a suitable size, in which the bar should, as formerly, be placed open to observation.

The want of due control over public-houses, as well as the existence of unlicensed wine-rooms, flash houses, and other receptacles for known thieves and abandoned characters, will fall generally under the consideration of *public-houses*, which it is ~~proposed~~ to defer; especially as a bill is now pending in parliament, which is said to have for its object a material alteration with

respect to the authority of magistrates in granting or withholding of licenses, when it will be important to consider the suggestions of different members of your Committee on that head.

Your Committee have nothing to add on the subject of *fairs*. They have no wish to oppose such innocent recreations as relieve the monotony of labor or give joy to the youthful part of society : it is only when fairs are not effectually superintended by the police, that they become, as has been fatally experienced, the means of disorder, violence, and crime.

With regard to that fearlessness of punishment which your Committee has imputed to offenders, they believe themselves to have established the fact from documents which cannot fail. The number of *re-commitments*, namely, upwards of 2000 within the last five years, out of about a total of 10,000 commitments, would alone prove the indifference with which the culprit regards his sentence. Strong as is his confidence in escape from serious suffering, and incalculable as is the evil arising from such persuasion, there are, perhaps, few questions more easy of solution than its probable cure. Were there a scale of real punishments fixed with regard to offences, as nearly as the variety of crimes will admit of ; and were trial speedily to follow offence, and execution as speedily and certainly to wait on sentence, it is believed by those who have thought much on the subject, that it would soon make a striking difference in the number of offenders, unless where the want of sustenance drives them to desperation.

The Court will readily appreciate the anxious feelings with which its Committeé, introduce their last remedial proposition, namely, the permanent removal of convicts in general, including minor offenders as well as felons, to parts beyond the seas ; except in cases of extreme youth, and where the crime is not of a profligate nature. In the former case, summary punishment and immediate discharge would save them from the contaminating effects of a jail.

Your Committee might, perhaps, be considered as having already discharged their duty, by their solemn declaration, that without such a measure they have no hope of security for the public, or of any material improvement in the system of police. All means for the reform of prisoners have been tried, and tried in vain. Short transportations, the Hulks, penitentiaries, well-regulated jails and houses of correction, classification, employment, education, spiritual instruction—all have failed, and that almost totally. Those who shall condescend to consider the facts and weigh the reasons herein adduced, it is believed, will partake of that despair which fills the minds of your Committee, and come to the same sorrowful conclusion.

It may be said, that having thus avowed its opinion, it would be more becoming in your Committee to leave to the state, should it admit the truth of the evil, to devise a suitable remedy for its cure. With all possible deference to the higher authorities, your Committee believe that, as between the court of quarter-sessions and themselves, more is expected.

They will proceed, therefore, to meet the two material objections which they anticipate; the one on the part of the public, the other on that of government.

The public, not entering into those minute considerations which it has been the duty of your Committee to pursue, and influenced by those kind feelings which do honor to our country, may regard so general a measure of transportation as shall include minor convicts, such as profligate vagrants, reputed thieves, &c. as too severe: but those who have attended to the more recent and authentic accounts from New South Wales, will be convinced, that to transport such persons to that settlement, would be towards them an act of the highest humanity. It does not follow, that those who have been convicted of the minor offences should be sent to the same parts, or be subject to the same degree of opprobrium and discipline, as those convicted of felony. Their situation would rather be that of articulated servants for a period. Their transfer would be from the moral pest-houses of the metropolis, and the fiend-like association of those confederates, from which they cannot, or will not separate themselves, to a salubrious climate, a fertile soil, occupied by a prosperous and rapidly-increasing population, among whom mild and respectable servitude would be almost sure to be obtained, and where even the worst felons have by a change of conduct acquired considerable property; and, what is of more consequence, have regained that which, under no system hitherto adopted, has ever been accomplished, namely, character! When your Committee reminds the Court, that under the 17th Geo. II. cap. 5, which was regarded for upwards of eighty years, and until recently, as the great institute of our vagrant law, that the same order of convicts whom it is now proposed to remove to New South Wales, might, after long imprisonment and whipping, have been sent to serve his Majesty by sea or land, this suggestion of your Committee will not, they flatter themselves, be deemed a harsh one.

It is idle to say, that the errors and crimes of such persons arise from the want of employment. Were manufactures brisk and labor in demand, they are not the beings who would submit to it, or be satisfied with the ordinary wages of servitude, while occasional depredation is so productive, as to enable them to continue their inveterate habits of wicked and expensive indulgence.

But were they even disposed to work, let every man ask himself, if he would mix people, thus stamped with infamy, with sober and respectable mechanics and artisans? It is well known that they are not, that they cannot be employed. And the question is at length reduced to this, namely, whether the criminal part of the population shall go on increasing till they become too strong for the civil power, of which, even at present, they stand in so little awe, or be removed to a station every way better for themselves?

Your Committee do not anticipate any other objection on the part of his Majesty's government than the *expense*, which they have understood to be the reason that so small a proportion of those sentenced to transportation within the last seven years, have actually undergone that penalty of the law. To say nothing of the proportion of expense which different parishes might be disposed to contribute to this end, through their county rate, and be great gainers by so doing, your Committee cannot help thinking that persons might be found who, from the altered state of New South Wales, would readily contract to convey convicts free of expense to government, provided they should have a property in their servitude assigned to them for a certain number of years. This is no new principle. By the Act 4 Geo. I. cap. 11, and subsequent Acts, the court which passed sentence of transportation were "empowered to transfer and make over such offenders to the use of any person who should contract for the performance of such transportation, to him and to his assigns for seven years." Other provisions enlarged the power of the court, as to the number of years and places beyond the seas to which criminals might be consigned, after they should have undergone the previous punishment of burning in the hand, or whipping, and imprisonment: most expressly enacting, that the contractor should have a property in the convict for his labor, during the whole term for which he was sentenced. From the clauses which relate to the *expense* of transportation, it should seem that the only charges to which the public was liable, were those of preparing the contract and the "conveying of the felon *in order to be transported*." The striking difference between the rigorous fate of the transports to the American plantations and those to New South Wales is, that such has been the value of labor at the latter place, such the field of exertion, and such the comfort and prosperity of the convicts, that without strong regulations it must, as observed by Lord Bathurst, cease to be that place of punishment which the legislature designed it for.

Your Committee feel satisfied that they have already established their proposition as to the probability of convicts being removed

from the country without material expense to the state; and, under this impression, they have directed their attention more particularly to ascertain, how far it is probable that those who are now an intolerable and dangerous burden to their country and themselves, might be received into active and useful service in New South Wales.

Among other means of information presented to your Committee, has been a work recently published by P. Cunningham, Esq. R. N., who went four voyages to that settlement as superintendant surgeon, having a considerable number of convicts placed under his care and authority, and who himself resided two years in different parts of the colony, to which he has now returned. This gentleman's work is written with considerable ability, and displays so much knowledge of his subject, physical, moral, and political, as seems to entitle his opinions to great attention. He speaks of the settlement as in a most rapid state of advancement. Considering the numerous and great difficulties which the first settlers had to encounter, the Court will read with interest the following sketch:—"Here" (Mr. Cunningham says, vol. ii. p. 64.), "where thirty-eight years ago not one civilised being disputed the dominion of the woods with their savage inhabitants, nearly fifty thousand such now exist, spread over an extent of country of two hundred square miles, having justice administered by civil and criminal courts and by six separate courts of quarter-sessions, and eleven benches of magistrates instituted among them. Where, thirty-eight years ago, not a single European animal breathed, now upwards of two hundred thousand sheep, upwards of one hundred thousand head of cattle, and many thousand horses and other animals destined for the support and pleasure of man, are peacefully grazing. Where, thirty-eight years ago, not an ear of grain was cultivated, we now see one hundred thousand bushels advertised for, for the mere annual consumption of one of our distilleries." Mr. C. goes on to enumerate other items of surprising progress, such as the amount of exports and imports, and the quantity of shipping employed in voyages to Europe, America, India, and the China seas. He imputes much of their agricultural success to the labor of the convicts, whom they have only to lodge, clothe, and board; while a free farm laborer is allowed, in addition to those advantages, from 12*l.* to 20*l.* per year in wages, and female servants from 10*l.* to 15*l.* Had Mr. Cunningham said no more, your Committee would have concluded that the labor and service of convicts is too profitable, not to make their importation a valuable speculation. The following extract, however, places the matter beyond doubt (vol. i. p. 11.): "Few people will be found foolish enough to

manifest an eagerness for the furtherance of objects which would prove detrimental to their private interests, and when we see the whole body of Australian settlers eager for the continuance of convict transportation to their shores, we may reasonably conclude that they expect to derive therefrom some considerable benefit. Notwithstanding the excess of the larcenous importation for some years back among us, no less than one thousand six hundred applications for ex-highwaymen, burglars, pickpockets, and various other descriptions of rogues, still remained uncomplished with on the arrival of the present governor, which obliged his Excellency to break up the government clearing-gangs, in order to satiate the longings of the settlers for the valuable services of that, with us, highly useful body of men. Nothing, in fact, ever created greater dismay among us, than the announcement, some two years ago, of a project for the future disposal of convict labor in the furtherance of government works at home, and in other colonies in preference to this."

Your Committee believe that it will give the highest satisfaction to every friend of humanity to learn, that the great object of the convict is to regain character. All past history is voted, by common consent, into oblivion. Here the convict starts anew; and having no hope of remission, comfort, or success, but according to his character for good conduct, he becomes most anxious to possess that good name of which he was formerly so prodigal. Those who are convicted of further offence in the courts in New South Wales are called "second sentence men," and condemned and avoided by their former associates. Mr. Cunningham observes (vol. ii. p. 190.), "the great body, however, of the convicts turn out to be good servants, and you will exact as much labor from them in general as from free laborers in England. We constantly see convict servants trusted to bring home, from distances of seventy or eighty miles, cart-loads of valuable property, for which they generally account as strictly as the most honest in England, while others have charge of houses containing property to a great amount, and faithfully perform their duty thereby." Towards the conclusion of his work, Mr. Cunningham observes, that "a more deadly blow could not be aimed at the prosperity of New South Wales, than making her no longer a deposit for criminals."

Your Committee are further enabled to refer to an authority of no mean weight. Mr. Wilmot Horton, in a speech which he delivered in the House of Commons on the 4th of March, said, "It was impossible to lay out capital with a better prospect of insuring a fair return, than by sending the supernumerary population to New South Wales. In fact, many parishes were so well

aware of this, that they would willingly undertake the expense of sending their own poor, under a conviction that, in the present state of, and with the peculiar wants of the colony, they could not expect any thing more profitable than an export of population. Nor was it in the home parishes alone that this truth was felt and acknowledged. In the colonies themselves the inhabitants would be most willing to pay the expense of conveyance, *if the individuals were articulated to them on going out*, so great was the demand for labor of all kinds in those places."

Can it then be doubted, that almost the whole of the criminal population that now, incubus-like, presses on the peace and health of the country, might be thus advantageously removed from the very focus of their abominations, and security be thereby given once more to persons and property, without violating one principle of the British constitution, or offending one sentiment of humanity!

The Court were pleased to refer to your Committee "the heads of a proposed Bill for providing additional means of guarding and protecting from thieves, robbers, and other ill-disposed persons, the lives and property of his Majesty's subjects, within parishes and places in the county of Surrey."

A plan has also been laid before your Committee, suggested by Sir Thomas Tyrwhytt, for the reception of juvenile convicts into an establishment in the forest of Dartmoor.

A member of the Committee has also strongly suggested the necessity of inquiring into the state of the infant paupers who are brought up in the different work and poor-houses, especially as to the nature and degree of the instruction which they receive, and by whom communicated.

Each of these subjects is worthy of consideration, and might, should such be your pleasure, receive at a future period the attention of your Committee; though it is obvious that, to engage in them now, would extend this report to an inconvenient length; besides, that time presses, as no one of the recommendations contained in this report can be adopted without the aid of government.

Your Committee have not gone into the causes of the increase of crime in the agricultural districts, conceiving the instructions of the Court rather to relate to the crimes therein mentioned, which principally prevail in populous towns and their immediate neighborhood.

Your Committee admits that commitments might be diminished in a small degree, if the treatment of prisoners in jails and houses of correction were somewhat more rigorous. They admit, also, that a much greater number of offenders might be brought

to trial if courts were more frequently held, and if still further encouragement were given to prosecutors and witnesses, whose charges already press so heavily on the county, and consequently on the poor-rate. But your Committee feel bound to say, that while punishment continues to be so lightly regarded, and offenders are so soon returned on the public, in a state still more forlorn and desperate than when first apprehended, they are not satisfied, but that evil, rather than good, would arise from multiplied prosecutions.

APPENDIX.

SURREY.—At the General Quarter-Sessions of the Peace of our Sovereign Lord the King, holden at Saint Mary, Newington, in and for the County of Surrey, on Tuesday in the Week next after the Feast of the Epiphany of our Lord, to wit, the Ninth Day of January, in the Fifty-sixth year of the Reign of our Sovereign Lord George the Third, by the Grace of God of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, before William Kenrick, Esquire; Sir John Frederick, Sir Joseph Mawbey, Sir Thomas Turton, Sir Mark Wood, Baronets; Sir James Alexander, Sir John Pinhorn, Knights; Baker John Sellon, Serjeant-at-Law; Thomas Sampson, James Weller, Doctors in Divinity; Joseph Alcock, Thomas Starling Benson, Edward Bilke, John Bowles, Richard Birt, Ebenezer John Collett, Robert Joseph Chambers, Jesse Curling the younger, John Marten Cripps, Solomon Davies, Charles Elliott, Thomas Fish, Thomas Gaitskell, John Gifford, Thomas Harrison, William Holmer, Randle Jackson, David King, Thomas Lett the younger, Thomas Page, Henry Pigeon, John Perkins the younger, George Ridge, Robert Rich, George Holme Sumner, William Speer, John Spicer, Henry Swann, Samuel Thornton, Christopher Terry, James Trotter, William Toulmin, Richard Thornton, John Whitmore, Matthias Wilkes, Robert Wissett, Florance Young, Esquires; Charles Jerram, Jarvis Kenrick, Arthur Cyril Onslow, Clerks, Justices of our said Lord the King assigned to keep the Peace in the County aforesaid, and also to hear and determine divers Felonies, Trespasses, and other Misdeeds committed in the said County:

Whereas the following Report hath been now laid before this Court, viz.

To His Majesty's Justices of the Peace for the County of Surrey, in General Quarter-Session of the Peace assembled:

Whereas at the last general quarter-session of the peace holden in and for this county, it was referred and recommended to all the acting magistrates of this county, or to any three of them, to be a Committee to take

into consideration the great increase in the number of shops for the sale of gin, and other spirituous liquors, in the Borough of Southwark and East half hundred of Brixton in this county, and to report to the Court at the next session their opinion of the consequences of such increase, and the most efficient means of suppressing or regulating the same: now we whose names are hereunto subscribed, being nineteen of the said Committee, having met and proceeded to the consideration of the matter referred to us, do report, that in the discharge of the duty assigned to us, we have thought it expedient to trace the progress of the evil complained of, its nature and degree, as well as the various steps which have at different periods been taken by the legislature, and by magistrates, for its prevention and cure.

It appears to your Committee, that the object of the legislature, as early as 12 Car. II. was to encourage the consumption of home-made spirits and the growth of corn, by laying large duties on the importation of foreign spirits.

The Act of 2 Will. III. expressly recognises that principle; after referring to the 1st of the same reign, c. 34, which forbids the importation of all brandies, aqua vitæ, and other spirits from France, it proceeds to various enactments "for the encouragement of the making of brandy, strong waters and spirits from malted corn, and for the greater consumption of corn in this kingdom."

Other Acts were passed, professedly with the same object, such as 1st Anne, chap. 14, &c.

It is perfectly evident from the preamble and provisions of succeeding statutes, that the consumption of home-made spirits had, from cheapness and facility of purchase, become excessive, and had produced evils of very great magnitude, both moral and political, threatening still further evils of various kinds, and of alarming extent. Evils which the legislature, however anxious and persevering in its endeavors, does not seem to have succeeded in correcting till about the year 1760.

Your Committee trust that a few brief references to certain statutes, and other public records, will confirm this statement.

The Statute 12th and 13th Will. III. chap. 11, subjects all retailers of brandies and other spirituous liquors to the same licenses from justices of the peace as ale-house keepers, who, it is known, had been subject to the license of two justices from the time of Henry VII.

From the period of the above statute of William, the evil seems to have increased to so great a degree as to have roused the attention of the magistrates and other public bodies.

In the year 1725 the President and Fellows of the College of Physicians felt it to be their duty, as conservators of the public health, to make it a subject of representation to the House of Commons, in the following terms; viz.

"We, the President and College or Commonalty of the Faculty of Physic in London, who are appointed by the laws of this kingdom to take care of the health of his Majesty's subjects in London, and within seven miles circuit of the same, do think it our duty most humbly to represent, that we have, with concern, observed for some years past the fatal effects of the frequent use of several sorts of distilled spirituous liquors on great numbers of both sexes, rendering them diseased, not fit for business, poor, a burden to themselves and neighbors, and too often the cause of weak, feeble, and distempered children, who must be, instead of an advantage and strength, a charge to their country: we crave leave further most humbly to represent, that this custom doth every year increase, notwith-

standing our repeated advices to the contrary: we, therefore, most humbly submit to the consideration of parliament so great and growing an evil. In testimony whereof we have, this 19th day of January, one thousand seven hundred and twenty-five, caused our common seal to be affixed to this our representation."

The respective grand juries of the City of London, the county of Middlesex, and the Tower Hamlets, represented the alarming progress of dram-drinking as a public nuisance.

In a presentment of a grand jury for the county of Middlesex in 1735, is the following passage:

"We, the grand jury for the county of Middlesex, taking notice of the vast number of brandy and geneva shops for the retailing of gin and other spirituous liquors, which being sold at a very low rate, the meaner though useful part of the nation, such as day-laborers, men and women servants, and common soldiers, nay, even children, are enticed and induced to taste, like, and approve of these poisonous liquors, sold for such small sums of money, whereby they are daily intoxicated, and get drunk, and are frequently seen in the streets in a condition abhorrent to reasonable creatures."

This presentment produced an appointment of a committee of magistrates, who reported as follows, anno 1735-6, viz.

"It is with the deepest concern your Committee observe the strong inclination of the inferior sorts of people to these destructive liquors, and how surprisingly the infection has spread within these few years; not only the vicious and immoral give into these practices, but those also who to all appearance are in other respects sober and regular; not only persons here and there in families, but whole families shamefully and constantly indulge themselves in this pernicious practice, fathers and mothers, children, as well as servants, &c."

Parliament had not been deaf to similar and preceding appeals, or insensible to the mischiefs which they forcibly represented: the prohibitory enactments of the legislature are justly received as a proof of the existence of the evil sought to be remedied.

The 6th Geo. II. c. 17, sec. 11, enacts, "that from and after the 24th June, 1733, no person shall hawk or sell, or expose to sale, any brandy, strong waters, or other spirits about the streets, or in any wheelbarrows, or on the water in any ship, boat, or vessel, or in any other manner whatever, or shall sell or expose the same to sale on any bulks or bulk, shed or sheds, stall or stalls, or on, or in, any other place or places, other than the dwelling-house of the person so selling the same, on pain of forfeiting for every such offence the sum of ten pounds, &c. &c."

From these interdictions may be gathered the universality of sale, and eagerness of purchase, which then prevailed as to spirituous liquors. The representations just quoted, still further excited the attention of parliament.

The preamble to the 9th Geo. II. commonly called the Gin Act, from its general application to the subject, runs thus: "Whereas the drinking of spirituous liquors and strong waters is become very common, especially among the people of lower and inferior ranks, the constant and excessive use whereof tends greatly to the destruction of their health, renders them unfit for useful labor and business, debauching their morals, and inciting them to perpetrate all manner of vices, and the ill consequences of the excessive use of such liquors are not confined to the present generation, but extend to future ages, and tend to the ruin and devastation of the kingdom."

This Act, among other very important regulations, most materially enhanced the price of the article, by laying a duty of twenty shillings per gallon on the retailer. It imposed also on all retail dealers the obligation to take a license, for which they were to pay no less a sum than 50*l.*, and persons selling without such license were subject to the penalty of 100*l.*!

Your Committee desire particularly to notice, that this Act, for the first time, gave to the *Commissioners of Excise*, and such persons as they should appoint, authority to grant licenses.

The 10th sect. of this Act enjoins, however, that "no license shall be granted for selling by retail spirituous or strong waters, except to such persons only who shall keep public *victualling-houses, inns, coffee-houses, ale-houses, or brandy-shops*, and use or exercise no trade whatever."

The 12th sect. repeats the prohibition of the former Act as to hawking in the streets and fields such liquors in baskets, wheelbarrows, &c., or in boats on the river, or selling them in stalls, bulks, sheds, &c. &c.

The 14th sect., which deserves great consideration, provides, that "nothing in this Act shall be construed to enable any persons to retail spirituous liquors, unless such persons be first licensed by two or more justices of the peace."

This great increase of the duties and penalties seems to have engendered much illicit traffic, and all kinds of artifice to escape detection, as appears from the preamble to the 11th Geo. II. c. 26, which, but two years after the Gin Act, laments the inefficiency of former Acts, and notices among other clandestine modes of sale, that the persons selling without license "are not seen, but are behind some wainscot partition, curtain, or are otherwise concealed," to remedy which it makes the penalty of one hundred pounds for selling retail without license more generally applicable.

Rigorous as the preceding Acts may seem to be, it is evident from the preamble to the 16th Geo. II. c. 8, that they also had failed in their effect, and an entire different course was now pursued. The license to sell by retail was lowered from fifty pounds to twenty shillings, the duty of twenty shillings per gallon was taken off the retailer, and, instead thereof, three-pence only per gallon was charged on the distiller, while the penalty for retailing without license was lowered from one hundred pounds to ten pounds.

Opposite as was the principle of this Act to the former ones, it seems equally to have failed; the evil still raged, as appears by the preamble to the 24th Geo. II. c. 40, and once more its remedy was sought by a very considerable advance on the duties on strong waters, to be paid by the distiller, and by adding corporal punishment to the penalties for retailing without license, making it for the third offence transportation for seven years.

At length the legislature succeeded in materially abating the degree of this national evil.—The preamble to the 23rd Geo. II. c. 9, distinctly recognises the policy of increased taxation; asserts its advantages from experience, and enlarges on that principle by further additional duties.

As this maxim of diminishing the home consumption by increasing the duty has been progressively acted on from the said statute of the 23rd Geo. II. to the present time, your Committee will quote its preamble; *viz.*

"Whereas the high price of spirituous liquors has been the principal cause of the diminution of the home consumption thereof, and has thereby greatly contributed to the health, sobriety, and industry of the common people; and whereas, it is therefore of the utmost importance to the public welfare that some timely prohibition should be made for preventing the return of all those mischiefs which must unavoidably ensue in case such

spirituous liquors should again be sold at as low a rate as formerly; and forasmuch as the most effectual and speedy method of continuing the high price of spirituous liquors will be by laying a large additional duty on such spirituous liquors, be it enacted, &c. &c."

Your Committee, in contemplating the preceding narrative, derive consolation from the belief that, great and injurious as may be the present consumption of ardent spirits among the lower orders of people, it bears no proportion to the consumption at those periods when the legislature so feelingly deplored their excessive use, the universality of their exposure for sale, and the almost unbounded licentiousness which was connected with this deleterious indulgence. But your Committee cannot at the same time conceal their persuasion that the consumption of spirituous liquors is still excessive; that the facility of their purchase has been greatly increased by the setting up of new gin-shops, many of which do not even pretend to supply the public with beer; and the equally injurious and increasing practice of converting *ale-houses* into shops for the sale of spirituous liquors; which they now make their principal, if not their only trade.

Your Committee, deeply feeling the danger of a return of all those evils so emphatically pointed out and described by the legislature, and solemnly impressed with a sense of their duty as magistrates, if possible to prevent so calamitous a result to the health and morals of society, proceed to submit their ideas as to what steps the justices in sessions may take, with the best chance of success, consistently with a due regard for property and to local distinctions.

Your Committee hope it will not be inferred that the magistrates of this county have been insensible of, or indifferent to the evil now under consideration; on the contrary, it appears from various minutes of their proceedings, that it has at different times, particularly during the last twenty years, been a subject of most anxious inquiry; but if their endeavors have hitherto failed of any material success, it will not be imputed to a want of zeal in them, by those who have seen this moral gangrene baffling the skill of the legislature itself throughout so long a period of time.

It appears that in 1794 the magistrates acting in and for the East half hundred of Brixton and the Borough of Southwark, which district comprises infinitely the greater proportion of the population of the county, and of the public-houses which it contains, Resolved, "to take all reasonable, legal, and expedient measures to lessen the number of retailers of spirituous liquors," the consumption of which, if not checked, must, in their opinion, "corrupt the morals, destroy the health, debauch the principles, and loosen the bands of all social order, decency, and decorum in the rising generation." This resolution was followed by certain orders and regulations, devised with the hope of effecting this desirable check.

It appears, also, that during the years 1803 and 1804 the magistrates for the same division gave great and serious attention to this subject, being alarmed by the still increasing number of liquor-shops. Among other steps, they laudably determined on a personal view of such houses as they had reason to suspect were *gin-shops* rather than bona-fide *ale-houses*, or other description of victuallars. The result of this inspection was a report that upwards of one hundred out of the houses licensed in that division were absolute *gin-shops*, or little better.

It appears from the proceedings to have been at one time in the contemplation of the justices to have withheld their licenses from these houses altogether. A variety of regulations as to the size of rooms, and the local position of their bars and doors, were afterwards suggested; but from some apprehension of legal objection, or from the difficulty of at once carrying

into execution so many detailed resolutions, or some other cause which does not appear, the numerous discussions on that occasion ended in agreeing to renew all the licences, after an address of admonition from the chair.

This tremendous evil still, according to the opinion of the Magistrates of the County, continuing to increase in magnitude and mischief, it has again been the subject of much and earnest deliberation during the last and the present year; the consequence of which was, that at the last General Quarter Sessions, held at Guildford on the 11th day of July, 1815, certain regulations respecting publicans were ordered to be exhibited in the tap-room of every public house in the County.

These regulations principally relate to the description of premises in which spirituous liquors shall be sold;

To the hours of opening and shutting ale-houses;

To the description of persons which publicans are permitted to harbor or entertain;

And to the hour beyond which no publican shall allow a pay-table to be kept open at his house.

The Magistrates for the division of the East Half-Hundred of Brixton and the Borough of Southwark, conceiving several of these regulations not to be conveniently practicable in their district, from the character and extent of its population, represented the same to the last Quarter Sessions, held at Kingston, on the 17th of October, requesting a re-consideration of the order, as far as respects the said district.

The said order of Sessions standing, therefore, for future and further consideration, your Committee will forbear to observe upon it at present, except as to the first of the regulations in question; which is immediately connected with the subject that your Committee is appointed to consider. It is as follows, *viz.*

“Every person having a victualler’s licence is required to have a regular tap-room, and a bar either within such tap-room or as near thereto as may be, at which alone spirituous liquors may be retailed, and not in any room or shop fitted up for that purpose, or communicating with the street, or with some court or alley adjoining to it.”

Your Committee will not now, for obvious reasons, inquire how far this regulation can be conveniently or legally enforced, according to its present terms, but agreeably to the instructions given to them, offer their opinion on the two propositions which they were appointed to consider.

With regard to the first, namely, “the consequence which must follow an increase of gin shops,” your Committee conceived that it could not better discharge its duty than by presenting to the Quarter Sessions an account of the consequences which are recorded as having arisen from such increase. If this historical view shows that almost every political, every moral, every physical evil which can befall society has hitherto followed the excessive use of ardent spirits, if facility and secrecy of access to them has hitherto seduced youth as well as age, females as well as males, the otherwise respectable of both sexes, as well as the grossly abandoned, to indulge in this mental and bodily poison, your Committee cannot but apprehend that these calamities will continue to increase in proportion to the increase of gin shops.

With regard to the second branch of their instruction, namely, “to report their opinion as to the best means of suppressing or regulating such shops,” your Committee cannot but feel the difficulty of their task. After such a narrative of failure in others, any opinion which they offer must be given with great diffidence; but they cannot help thinking, that some instances,

at least, of the failures described, have been owing to attempting too much in the first instance. Evils which have been so many years (it might almost be said centuries) in their growth, and respecting which it may perhaps be justly imputable to the Magistracy of this and other counties, that they have been too lax, and in the very practice of which great sums of money have been allowed to be embarked without judicial animadversion, must be met with great caution, and treated with as much tenderness as is consistent with a due sense of public duty; nor can there perhaps be a more enfeebling conduct in the discharge of the Magisterial function, or one more subversive of its dignity and authority, than the publication of rules and orders which cannot be, or at least are not enforced.

Your Committee therefore, after great deliberation, submit it, with all due deference, as their opinion, that the best and safest course would be, in the first instance, to adhere literally to the rule laid down by Parliament, and resolutely refuse to grant or renew licences but to such publicans as shall *bond-fide* "keep victualling-houses, inns, coffee-houses, and ale-houses;" meaning thereby, such as shall have fit and comfortable accommodations for those who shall prefer drinking of beer to spirits, and keep a stock suitable to the supply of customers of that description. What shall be regarded as fit accommodations, and suitable stock for this purpose, must, your Committee apprehend, depend on the judgment of those Magistrates who may be delegated to take a general view of all public houses within their respective districts, previously to the next annual period of granting of licences, at which time every publican will have been for several months in possession of the opinion of the licensing Magistrates, whatever it may be.

Your Committee are not so sanguine as to expect that this measure will do more at present than check the evil; but from the experience which it will afford, we think the Magistrates will be enabled to issue further and more particular directions, suited to the population and local circumstances of the different parts of the County. And if legislative aid shall be found necessary, they will by that time be in a situation to judge of its nature and degree.

As few facts are more notorious than that as the price of porter increased some time back, and its quality became materially deteriorated, the rage for gin-drinking increased in proportion, your Committee cannot but flatter themselves that in proportion as porter shall again become an acceptable article, good in quality and reasonable in price, the destructive passion for ardent spirits will abate, difficult as it may be to change the habits of a whole order of people. How far a restoration of that which for so many years formed the principal beverage of the English populace is practicable in itself, or within the reach of legislative authority, is not for your Committee to say, although of the happy effects of such change we entertain no doubt.

Given under our hands this 13th day of DECEMBER, 1815.

(Signed)

G. HOLME SUMNER,
GILBERT BUCHANAN,
JOHN GIFFORD,
GEO. RIDGE,
ROB. RICH,
F. YOUNG,
W. SPEN,
THO. LETT, JUN.
CHAS. ELLIOTT,
JOHN BOWLES,

RANDLE JACKSON,
JAMES TROTTER,
D. KING,
ROB. WISSEY,
THO. ALCOCK,
JESSE GUMMERY,
ARTHUR C. OWEN,
J. M. CRISP,
SOL. DAVIES,

Now on hearing the said report read, and on full consideration had thereon, IT IS ORDERED BY THIS COURT, that the same be, and it is hereby ratified and confirmed: AND IT IS FURTHER ORDERED, that it be, and it is hereby recommended to the Magistrates of this County to carry the same into execution in their respective divisions, by such means as shall appear to them most effectual; and that they be and that they are hereby requested to report to this Court at the next Epiphany Quarter Session, what regulations they shall have prescribed in their respective divisions for the conduct of victuallers: what number of licences or certificates shall have been granted in the year 1816, and what number of certificates for licences shall have been refused during the same period to persons applying for them, on the ground of contravention, or disobedience to the regulations now recommended to Magistrates to prescribe in their several divisions.

AND IT IS FURTHER ORDERED, that notice be forthwith given to all licensed victuallers in this County, of the determination of the Magistrates not to grant or renew any certificate for licence, but to such persons only as shall, *bonâ fide, keep taverns, inns, coffee-houses or ale-houses, as directed by the Act of Parliament 16th Geo. II. c. 6, and have sufficient room and accommodation for those who shall choose to drink beer, with a stock suitable to the supply of such customers.*

Lastly, IT IS ORDERED, That these resolutions be printed and sent to all the acting Magistrates of this County; and that a sufficient number of copies of such part of the resolutions as relates to the condition on which certificates for licences will in future be granted, be sent to the Clerks of the several Petty Sessions in this County, for immediate distribution among the victuallers in their respective divisions.

By the Court,

LAWSON.

SURREY TO WIT.—At the GENERAL QUARTER SESSION OF THE PEACE of our Sovereign Lord the King, holden at St. MARY, Newington, in and for the County of Surrey, on TUESDAY, the Fourteenth Day of June, One Thousand Eight Hundred and Seventeen.

To His Majesty's Justices of the Peace for the County of Surrey, in General Quarter Session of the Peace assembled.

—WHEREAS, at the GENERAL QUARTER SESSION holden in and for this County in January last, a report respecting the increased number of shops for the sale of gin, and other spirituous liquors, was taken into consideration, and thereon ratified and confirmed; and it was then recommended to the Magistrates of this County to carry the same into execution in their respective divisions, by such means as should appear to them the most effectual, and to report their proceedings to the next Epiphany Sessions; Now we, whose names are hereunto subscribed, being Magistrates who act within the East Half-Hundred of Brixton and Borough of Southwark, do

report, that we met accordingly to deliberate on the best means of complying with the said recommendation, and being of opinion that the most effectual mode of so doing would be to visit personally all the public houses within the said division, several Committees were appointed for that purpose, who proceeded accordingly to ascertain which of the said houses were *bonâ fide* public houses, and which of them were fitted up, principally, for the sale of gin and other spirituous liquors; when it appearing on such investigation that there were a considerable number of mere gin shops, their occupiers were reminded of the determination of the Magistrates in "Quarter Sessions assembled, not to grant or renew any certificate for licences but to such persons as should *bonâ fide* keep taverns, inns, coffee-houses, or ale-houses, and have sufficient room and accommodation for those who should choose to drink beer, with a stock suitable to the supply of such customers," printed notices to that effect having been previously served on all the said publicans: many of the occupiers of the liquor shops in question altered their premises according to the order of Sessions as far as the size of them would admit, and laid in stocks of beer—others declined for a long period making such alterations, notwithstanding a repetition of notices and letters, and a renewal of admonitory visits. These persons having however at length complied, we now report that almost the whole of the publicans within this division did conform to the order of Sessions according to the best of their ability, by dividing off a part of their premises in order to constitute a tap-room, or by the introduction of tables and benches into the shop in which they sold their spirituous liquors, in cases where the houses were too small to admit of such division; they also laid in suitable stocks of beer. We, considering the circumstances of the case, the long toleration of such houses, the tenderness which the said report so ratified and confirmed by the sessions expresses for property, and the caution with which it seems to recommend us to proceed in the first instance, have renewed the licensing certificates for all these houses for the ensuing year. At the same time, we feel it our duty to report, that the areas of many of those denominated liquor shops are much too small for *bonâ fide* public houses in their present conditions; and we apprehend that no effectual reform can take place with respect to such shops, until the owners shall be obliged to have properly apportioned tap-rooms. This circumstance we submit as important for the consideration of the county, although we doubt the possibility of carrying this, or other material regulations into effect, but under some general legislative system, embracing the whole of the metropolis and its environs, without which it would be to little purpose the Magistrates who act for the East Half-Hundred of Brixton and Borough of Southwark insisting on such alterations and regulations, whilst perhaps other Magistrates might not enforce similar measures in the immediately adjoining or neighboring districts. We have further to report, that in the course of this year the Magistrates have granted eight hundred and thirty-one certificates for licences within this division, which is eight less than were granted in the year one thousand eight hundred and fifteen, and that we have not granted any new licence. We beg leave also to suggest the following regulations to the consideration of the Quarter Session, and as proper to be submitted to the deliberation of the Legislature, *viz.* The requiring that all publicans should have tap-rooms of a sufficient size, and that such be situated in the front of their houses next to the street—the stopping up of all side doors opening into lanes, alleys, or streets, except such only as shall be absolutely necessary for the carrying in of the stock in trade—that magistrates should have authority, at a session to be especially summoned for that purpose, to suspend, for a given time, between the

annual licensing days, the licences of such houses as shall be proved to have been conducted improperly—that ministers, churchwardens, overseers, and householders, be enjoined to make inquiry, to the best of their power, respecting the character of every person applying to them to sign a certificate of their fitness to keep a public house, previously to their signing the same, and that every publican applying for the annual renewal of his licence, be required to produce such certificate. That in all cases wherein it shall appear to any Magistrate that a public house has been conducted in an improper or disorderly manner, such Magistrate be requested to communicate the same to the clerk of the district in which the house is situate, in order that he may lay such information before the next meeting of the Magistrates of the district.

THOMAS HARRISON, *Chairman.*

Now on hearing the said report read, it is ordered by this Court, that the same be filed among the records of this County, and that a copy thereof be transmitted to his Majesty's Secretary of State for the Home Department, by the Chairman of this session. And it is further ordered, that the thanks of this Court be, and they are hereby given, to the Magistrates acting in and for the said East Half-Hundred of Brixton and Borough of Southwark, for their attention to the matters referred to them.

By the Court,

LAWSON.

A REPORT

PRESENTED TO THE LORDS OF THE COMMITTEE OF
HIS MAJESTY'S PRIVY COUNCIL FOR TRADE,

RESPECTING

THE AGRICULTURE AND THE TRADE IN CORN,
IN SOME OF THE CONTINENTAL STATES OF NORTHERN EUROPE.

BY WILLIAM JACOB, Esq.,

COMPTROLLER OF CORN RETURNS.

LONDON:—1828.

MY LORDS,

IN obedience to your Lordships' instructions, as communicated to me by Mr. Lack, under date of the 15th August, I proceeded without delay to the Continent. I first reached the kingdom of the United Netherlands, passing, without much stay, through Rotterdam and Amsterdam. As the provinces of North and South Holland, in which those cities are situate, produce but little corn, I hastened over them, and Utrecht, Guelders, Friesland, Overysse, Drenthe, and Gröningen. From thence I entered the kingdom of Hanover, by the province of East Friesland, at Embden; and then proceeded through the duchy of Oldenburgh to Bremen, and from that city across the Hanoverian province of the same name to Hamburg.

I travelled from Hamburg through the central and southern parts of the duchies of Mecklenburg Schwerin and Mecklenburg Strelitz, and by the shores of the Baltic, till I reached Lubeck.

As that part of Germany consists chiefly of arable land, and contains a population almost exclusively agricultural, though I visited the cities of Ratzeburg, Schwerin, Güstrow, Rostock, and Wismar, my time and attention were chiefly directed to the rural affairs of the district; to which I was invited by the reported extent of its surplus corn, by the boasted superiority of its agricultural management, and by the many intelligent cultivators, to whom I had been amply supplied with means of intimate communication.

From Lubeck I passed to Copenhagen, by the Baltic Sea; and from that city, travelled through the islands of Zealand and Fünen to Jutland, and then through the other continental provinces of the Danish dominions, viz. Sleswick and Holstein, till I again reached Hamburg. I pursued my journey from Hamburg, by passing

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through the kingdom of Hanover, in a southerly direction, by Zell, to the capital; and thence by Einbeck, Gottingen, and Münden, till I entered the principality of Hesse Cassel. Passing through that country, and part of the dominions of Hesse Darmstadt and Nassau, I reached the Rhine at Coblentz, and from thence hastened on to Brussels.

The alternate year, for conducting the government of the kingdom of the United Netherlands at the Hague, had commenced when I reached Brussels; and every person and document, from whom information was likely to be obtained, was removed to that city. I was therefore induced to proceed there a second time. From thence, by Antwerp and Ghent, through the most productive portion of the kingdom, I reached Calais, and returned to London.

The condition of the roads, in the countries I passed through, would scarcely deserve notice in this report, if no other consequence were attached to it, than the annoyance to the traveller from the slow pace at which he advances, and the lengthened halt at every change of horses; but, as connected with the subject of the cost of supply in corn, it becomes of importance; and still more so, when the parts of a country in which the greatest surplus of grain is produced, are very distant from the ports at which it can be shipped to other countries.

In the eastern parts of the kingdom of the Netherlands, with the exception of one stage from Assen to Gröningen, the whole of the roads from Deventer to the frontier are nearly in a state of nature; consisting of deep sand, without the aid of any hard substance to improve them. Beyond the frontier, in the Hanoverian territory, the soil becomes gradually more compact; and after passing the Ems, it changes to a heavy clay. Those roads are equally left to the operation of the elements; when wet, they are scarcely passable; when becoming drier, they are stiff, and require great exertions from the draught cattle; and even when quite dry, in the summer, though better for travellers, they are full of holes, formed by the water in hollow places.

The bad state of the roads, though it adds to the expense of export, has not so great an influence in Gröningen and Friesland, as in Mecklenburg and Holstein. The chief kinds, or indeed the only kinds, of grain, of which those two districts have a surplus, are oats, and a small portion of beans. These are raised on the marsh lands, on the borders of the sea-shore, or on the sides of the rivers; so that there is scarcely any quantity requiring land-carriage beyond the distance of 15 or 20 English miles.

In Mecklenburg the roads are equally neglected, being either deep sand or loamy clay, both requiring great exertions to draw wheel-carriages, and both equally left in a state of nature.

As the best wheat and rye lands are at a considerable distance from the shipping ports, the cost to the grower is generally enhanced, increasing according to the distance in a compound ratio.

Some of the best farms are distant from any shipping port, 40 or even 50 English miles. The time when horses can be best spared to draw the corn to a port is the winter, when the roads are frozen; but even then, they are hardened into a rough state; from their great breadth, are never well and equally trodden; and from the variable nature of the climate, in the coldest winter, sudden thaws, with rain and sleet, succeed to as sudden frost and snow.

In Denmark, the main roads over the islands are very good; but in the continental provinces of Jutland, Sleswick, Holstein, and Lauenburg, they are in a most neglected state, which renders travelling tedious, even in the most favorable weather. The fertile province of Holstein supplies the greater part of the corn that is exported. The eastern and western sides of it are bordered by the Baltic Sea, or by the river Elbe; but it contains a large extent of productive land in the middle district, from whence corn must be conveyed, by these very bad roads, to a distance of 40 or 50 English miles, before it can be shipped. Much of it is carried a still greater distance; for that which grows nearest to the Baltic, finds a better market at Hamburgh than at Kiel or Lubeck. A gentleman with whom I had the pleasure to become acquainted in Holstein, who possesses a fine estate about 20 miles from Kiel, 30 from Lubeck, and more than 60 from Hamburgh, told me that he commonly sent his waggons loaded with corn to the latter city. I found some other proprietors and cultivators in that neighborhood, who adopted the same practice. They were induced to it from the freight and insurance being lower from Hamburgh than from the Baltic ports, but chiefly because from that city it could be sent with less delay to any distant markets, that might, for a short period, open themselves for its reception.

The state of roads in countries which export corn deserves attention when, calculating the cost of production, less on account of the slow pace of travelling on them, than on account of the small quantity of corn which each team of horses can draw. Thus, for instance, in England, the usual load of a waggon with four horses is ten quarters of wheat, weighing about 4,800lb, whereas in the districts, the roads of which are noticed in this report, the usual load is not more than half that weight.

As this branch of the cost of production is of vast importance in times of scarcity, when very distant land-carriage to the water-side is required, and as the principles which regulate it are applicable to all such countries, and to all the several kinds of grain, it may not be amiss here to introduce the calculation furnished by a very enlightened and accurate gentleman, whose personal acquaintance I had the pleasure to make during my journey, but whose character and attainments had been previously known to me. It is sufficient for the present purpose to remark, that this proprietor and excellent cultivator of a good estate in Mecklenburg, gives the following cal-

calculation, grounded on the real cost of his expenses of conveyance, on an average of 5 years.

The estate in question is distant 6 German, or 24 English miles, from the market-place to which its surplus corn must be carried.

The regular load on this estate for a waggon with 4 horses is 2,400lb. weight, or 40 Rostock sheffels of rye, being nearly equal to 45 imperial bushels, of 53lb. weight; but for the subsistence of the cattle backwards and forwards, 180lb., or about 3 bushels and a half, of the corn must be carried, and deducted from the quantity to be sold, which will then be 41½ bushels.

The expenses in money, on each journey, on an average of the last five years, for the keep and wages of the men, and various small incidents, is found to amount to 4s. 8d.; and the value of the corn carried for the horses, at the price of the place where, if not consumed, it would have been delivered for sale, taken at 3s. the bushel, amounts to 10s. 6d., thus making a deduction of 15s. 2d. on 41½ bushels.

	s.	d.
The amount, then, of the 41½ bushels, at 3s., is	124	6
Cost of conveyance, in money and corn	15	2

Net produce - - - - 109 4

The expenses of conveyance thus amount to somewhat more than 13 per cent. on the sum which the cultivator receives for his rye.

No additional charge is made in the statement for the wear and tear of carriages, harness, or cattle, nor any for the loss of the manure made by the horses, for the interest on the capital which is invested in cattle and implements, and gradually diminished in value; nor is any notice taken of the expense of maintaining the horses and men for those portions of their time, when by inclement weather, or other circumstances, they are doomed to remain in a state of inactivity.

For a journey of 10 German or 48 English miles, as it would occupy twice the time, the food to be carried for the horses would be 360lb. weight, and the quantity of corn to be actually sold would be only 2,040lb. or 38 bushels. The expense of the men would be doubled; thus the sale would be

	s.	d.
38 bushels, at 3s.	114	6
Cost of conveyance	30	4

And the net produce - - 83 8

If the distance to the market be still further extended, it will appear, by calculation, that the net produce is gradually diminished with the distance, till it finally disappears, and the transport of grain must consequently cease.

Supposing 500 bushels of corn be worth 3*s.* per bushel at the market, or 1,500*s.*,

The net produce would then be thus, after the conveyance to the following distances:—

5 German, or 24 English miles, 1,313 net produce.	
10 - - - 48	1,136 —
15 - - - 72	968 —
20 - - - 96	809 —
25 - - - 120	656 —
30 - - - 144	512 —
35 - - - 168	374 —
40 - - - 192	242 —
45 - - - 216	116 —
48 - - - 240	0

This calculation would lead to the same conclusion, if, for a journey of 24 English miles, it were assumed, that 15 waggons, each carrying 2,400lb. of corn, were attended by a sixteenth, carrying likewise 2,400lb. for the subsistence of the cattle, instead of each waggon carrying the provender for its own team.

This digression respecting the rate of expense on the conveyance of corn, founded as it is on the practical experience of a very accurate person during a series of years, though it may be tiresome can scarcely be deemed improper, because the countries which afford the largest surplus of grain are as ill accommodated with roads as those of East Friesland, Mecklenburg, Sleswick, and Holstein. It serves also to show the cause of the vast difference in price observable between some districts and others of the extended empire of Russia. It may assist us to account for the famines which in past periods have desolated some parts of the interior of India, and other portions of the world; and it affords a practical reason for the people of Andalusia, in Spain, drawing their supplies of wheat and flour from the United States of America, when wheat was there at 4*s.* 6*d.* per bushel, whilst on the plains of Castile it was not worth more than 1*s.* 6*d.* the bushel.

Although it may be most advantageous to take a view of the agricultural state of the kingdom of the Netherlands in a mass, in a later portion of this report, yet some notices of a local nature may here be introduced.

Utrecht is both a rich and fertile province, contains numerous manufacturing and mercantile establishments, and a population, according to the recent returns, of one person to two 4-10ths acres. There are, however, in this portion of the kingdom, considerable tracts of land that could only be cultivated from their being distributed among small occupiers, who subsist, in the condition of day-laborers, by performing the whole of the requisite work with their own hands. Between the cities of Utrecht and Amersfort there is a considerable extent of such land, which, I was informed on the spot, had been recently let at four stivers the morgen, or little more than two-

pence the English acre. Near to Appeldoorn, and around the royal domain of Loo, widely extended heaths are bringing gradually under cultivation; and numerous small dwellings, with trees, gardens, and enclosures around them, in various degrees of progress, show clearly that the population is rapidly increasing, and is driven for subsistence to the laborious toil of bringing into cultivation portions of the soil, which for some years will be unable to do more than yield, in return for the labor that is bestowed on them, scanty crops of potatoes, buck-wheat, and oats; scarcely equal to supply the urgent demands of those who cultivate them.

I heard of various and extensive operations and projects for bringing into cultivation the inferior soils, with scarcely any expectation of profit, and with no prospect of extracting from them surplus produce, but merely with the view of providing some employment for the poor, which may lessen the weight of expense which now arises from their increasing numbers. With this object, rural depôts of mendicity and orphanism have been established in several parts of the kingdom, on barren heaths, especially a very extensive one on the spot called Frederick's Oord, where the four northern provinces of Overijssel, Drenthe, Friesland, and Gröningen, approach each other.

Although these establishments are highly interesting to the philanthropist and the statesman, as well from the benevolence of the design, as from the economy and humanity with which they are administered, as they are not likely in many years to produce any surplus of corn, it would lead too far from the especial object of my journey to do more than merely to notice them in this report.

It would have been difficult, had time been allowed for the investigation, to have generalized the value of land, or the average rent that is paid for it, in a district where its quality varies so excessively as in Utrecht. The low rent of the worst land has been noticed; and some judgment may be formed of the best, by an account communicated by the proprietor of one estate. It is in a rich district, between Utrecht and Rotterdam, consisting of about 160 English acres, one half of good meadow, and one half arable, capable of bearing, on an average of years, from six to seven quarters of oats to the acre, and a proportionate quantity of wheat or rye, when those crops are cultivated. It had cost, two or three years ago, 42,000 guilders, or 3,500*l.* It was let on lease for six years, with strict covenants as to the rotation and cultivation, for 1,200 guilders, or 100*l.*, the proprietor paying the land taxes, amounting to 160 guilders, or about 13*l.* 5*s.*

The proprietor had reserved for his own use a house, with garden and orchard, the right to the fishery and chase, and the cuttings of the willows that border the enclosures. These he estimated at one fourth of the value of the whole purchase, thus leaving for the capital invested on the land alone 2,650*l.* From this capital he draws an income of 86*l.* 15*s.*, or about three and one quarter per cent. per annum. In cold climates the necessary buildings for carrying on

agriculture bear a much greater proportion to the value of the land than they do with us, and the estate in question must have been let to an occupier who had the requisite buildings on an adjoining estate, as no other would have taken it without house, garden, and especially orchard.

The agricultural laborers are in general paid in money, without food, house, or fuel, at the rate of about 16*d.* a day in summer, and from 10*d.* to 12*d.* in winter. As in winter they require warm clothing and much fuel, they are chiefly subsisted on potatoes and a kind of gruel (brey) made of oats or rye, and seldom more than a small portion of salted meat once a week. The bailiff of one estate, of about 200 acres, was boarded and lodged by the proprietor, and paid 20*d.* a day in summer, and 10*d.* in winter.

The other three provinces which I passed through are much less thinly peopled than either Utrecht or the southern parts of this kingdom. The degree of density of population is in the following order, according to the last official accounts, and consequently comprehends the great increase which has taken place between the years 1815 and 1825: Gröningen has one person to three and one-sixth English acre; Overijssel, one person to five and one-tenth; and Drenthe, one to nine and two-tenths. The productiveness is nearly in the same degree as the density of population. Gröningen exports much butter and cheese, but very rarely any corn, except a few oats and some buck-wheat. It also furnishes considerable quantities of rape seed and rape oil and cake. Overijssel does not grow more corn than it consumes; the chief produce is buck-wheat and rye. Butter and an inferior kind of cheese is made beyond the demand of the inhabitants, and is exported. Drenthe, though it consumes but little corn, yet rarely grows sufficient to supply its own wants. The great mass of the people in these provinces subsist almost exclusively on potatoes, which are abundantly cultivated on the extensive heaths which intervene between those marshy borders of the rivers, where the cows, which afford butter and cheese, are pastured. The chief labor of the people is that of furnishing the turf, with which these provinces supply the more wealthy and populous districts of the kingdom. This employment is maintained by the numerous canals cut to the turf lands; and the number of boats passing to and fro with that fuel, display almost the only observable kind of activity. The cultivation is chiefly carried on by small proprietors or renters, who live in the most parsimonious manner on their scanty crops of buck-wheat, rye, and potatoes, with some assistance from the dairy, either in cheese or bacon. The value of land in districts, comprehending small tracts of good water meadow, and large extents of sandy heath, with all the gradations between the two, must vary much. That part which is under the plough is rented at all prices, from 15 to 36 guilders the Dutch morgen; or, taking the guilder at 20*d.* sterling, and the morgen at two and three-twentieths of an acre from 1*l.* 6*s.* to 26*s.* the acre. There is, however, but a small extent

of land coming within this description. The chief part of the inhabitants, exclusive of the two cities, seem to be seated in the heaths near the canals, and to cultivate their small portions of the soil by human labor alone. I was told that the rents for these small allotments, before cottages were built on them, and when in a state of nature, was as low as from 3*d.* to 6*d.* per acre.

Near the cities of Gröningen and Zwolle, the best meadow land is sometimes let as high as 150 guilders the morgen, or about from 6*l.* to 6 guineas the acre.

The wages of day-laborers in agriculture in these provinces I found to be commonly, when they were neither supplied with dwellings, fuel, nor food, from 14*d.* to 16*d.* per day in summer, and from 8*d.* to 10*d.* in winter.

During the periods of hay and corn harvest, great numbers of Germans, chiefly from Westphalia, come into this country to work. Without such assistance those occupiers of land who are above the condition of mere laborers, would find a difficulty in securing their crops. In fact, as may be presumed in a country of small occupiers, the number of mere laborers skilful in husbandry is very inconsiderable. Such laborers are as much bargemen and sailors as agricultural husbandmen. This is even apparent in their dress, for the ploughmen, waggoners, and others, are most universally equipped with blue jackets and trowsers, instead of round frocks.

As it was manifest, both from observation and the opinions universally given, that these northern provinces afford no surplus of corn, they had too little connexion with the chief objects of my journey to allow of much time being allotted to their examination. I remarked that every where near the towns, the cultivation of culinary vegetables and of fruit was carefully attended to; that near the villages, the extent of land growing potatoes was very great, and that appropriated to turnips inconsiderable; whilst no carrots were to be seen growing in the fields, as they are in the southern divisions of the kingdom.

The demand for oats in England had exhausted the stocks in the southern provinces of the Netherlands, and their supplies had been drawn from the northern districts. They too had become exhausted, and it was with difficulty, and by paying an enormous price for each small quantity, that the postmasters and other persons keeping horses in high condition could obtain the necessary supply.

One postmaster, who kept 24 horses, and allowed to each about a bushel and three pecks of oats weekly, complaining of the low rate of posting at present, stated, that he had with much difficulty been able to collect a quantity equal to ten quarters, for which he paid 22*s.*, being more than double the current price of the former year, when the rate of posting had been fixed.

At another town, Wiashotten, near the frontier of Germany, I was told the price had risen still higher, and that it was with difficulty any could be procured. The same scarcity was observable in beans.

There was plenty of green clover to cut, for the subsistence of such horses as were employed in husbandry, but all who kept them either as carriers or barge-masters, or for the purposes of luxury, were really distressed for horse corn, as well from the scarcity as from the high price.

As far as my observation enabled me to judge, when compared with the opinions of the cultivators with whom I had opportunities of consulting, the harvest, then in the midst of being secured, was only a moderate one. The wheat was reported to be a fair average, but a very small proportion of the land is appropriated to that grain. Rye, which is the main support, was below an average crop, and not of good quality. Barley was, like rye, below the average; and oats, as far as they were cut, deemed to be worse than barley. The beans were almost uniformly very deficiently podded, and believed to be worse than even in the last year.

The province of East Friesland, in former times an independent state, afterwards incorporated with the Prussian monarchy, and in consequence of the negotiations at Vienna, at present forming part of the kingdom of Hanover, is chiefly important to the subject of this report, on account of the great quantity of oats which it usually yields, and from the supposed great surplus of that grain it can annually furnish for exportation.

The whole extent of the province contains about 700,000 acres. It is bounded on the east, north, and west sides by the sea, or salt estuaries. On the shore is a border of land in pasture, or in cultivation, varying from 1 to 5 miles in breadth; but near Embden spreading out to near 14 miles, which is highly productive. This, like, indeed, the whole province, is defended from the sea by high embankments, constructed and kept in repair at an enormous expense, whilst the land is drained by numerous broad ditches, below the level of the sea at high water, but above it when the tide is out. It can thus be drained in some measure by powerful flood-gates, which open and shut by the reflux or flux of the tide.

The embankments have been on several occasions found ineffectual for protection against the sea, and several most calamitous inundations have been recorded, by which the whole country has been covered with sea water to the depth of many feet. None of those inundations have been more disastrous than the recent visitation in the beginning of February, 1825, when all the houses in the villages near the embankments, and even the cities of Embden and Leer, were immersed in the waves, to the depth of several feet. Although not many human beings were drowned, the loss in cattle was found to be 80 horses, 400 cows, and 3,000 sheep, besides pigs and poultry; and the damage to corn, furniture, barns, houses, and implements, was estimated to amount to 40,000*l*. The sympathy that was very extensively excited did much to alleviate the suffering; but the

province still severely feels the effects of the visitation, and can scarcely ever be freed from the apprehension of similar catastrophes.

The annual expenses of maintaining the embankments fall on the border land which is nearest to them, estimated to be about 220,000 acres. On an average of 12 years, in which no inundation had occurred, the expense of the dikes amounted to about 16,000*l.* sterling, or nearly 1*s.* 6*d.* per acre. In years following such inundations as those of 1717, 1736, 1751, 1756, 1775, 1791, 1817, and 1825, the extra expense of repairs and of heightening the banks has been felt as a burden on the land, which, fertile as it is in itself, has rendered some of but little intrinsic value.

This is sometimes the case, because in levying the contribution, the lands nearest the embankments are charged the highest; and if they should be of inferior natural fertility, or be in an exhausted state, they are rendered nearly worthless.

The line of embankments extends more than 160 miles on the coast; it is divided into 36 districts, over each of which one or two proprietors of at least 20 acres of land have the supervision; for which they are exempted from their share of the expense of construction and reparation. An annual body of commissioners is appointed by the government, to direct the collection and application of the necessary sums.

It is difficult to estimate what the expense to the land is, after such calamities. I heard complaints of the weight of the contribution, as well as of the mode of its repartition, but no precise facts on which to build certain conclusions; but, as far as I can venture to estimate, I should calculate the extra expenses of embankment, which arise from such casualties as have occurred 8 times within the last 90 years, to amount to at least 1*s.* 6*d.* the acre annually.

In most cases, the ordinary and extraordinary cost of embanking is paid by the occupier, when the land is let; but in some instances it is deducted by the proprietor from the rent. In either case, however, it equally forms one of the costs of production.

In the district under consideration, as indeed in the whole of East Friesland, although some extensive domains belong to the crown and a few noblemen, Count Munster and others have large estates; yet the far greater portion of the land is cultivated by small occupiers, mostly proprietors also, who work with their families in the fields, and can rarely have occasion to pay anything to day-laborers. Some of those farms are less than 10 acres, more under 20, but the greater part of the whole province is occupied in portions, between 40 and 140 acres.

Beyond the narrow border here noticed, there is a second circle of permanent pasture, and some light arable land of tolerable fertility, consisting of about 220,000 acres, in which division is raised the greater part of the corn, except oats, with much buck-wheat and potatoes; but the interior of the province, though but a few feet ele-

vated above the low border, is in a great degree either an extended heath, or mere barren land. These lands denominated (heide) heaths, and (hochmoor) high moorlands, amount in the 12 bailiwicks into which the province is divided, to about 240,000 acres.

If the whole province be thus stated, it will be as near an approximation to classification of accuracy as can be hoped for :

Marsh land, constantly in grass	- - - - -	105,000 acres
Marsh land, occasionally broken up and ploughed	-	120,000 —
Arable land, mostly sandy loam	- - - - -	220,000 —
Barren turf and moor lands	- - - - -	240,000 —
Sites of towns, rivers, canals and ditches, about	-	15,000 —

Total - 700,000 acres.

It may be remarked, that there are scarcely any woods, very few trees, and the fruit-trees that have been planted are by no means productive. The fuel used is either turf dug on the moors, or wood brought down the Ems from the province of Westphalia.

As East Friesland feeds from 80,000 to 100,000 cows, either for the dairy or for fattening, we may calculate that they must consume the whole of the produce of the 105,000 acres of the permanent marsh pasture. There will then remain for the subsistence of about 140,000 human beings, and from 22,000 to 25,000 horses, with about the same number of sheep, and 18,000 pigs, 330,000 acres of land, of which one-third is fairly productive, but needing fallowing and manure, and the other portion, varying gradually from medium to the most sterile that will pay for the labor of cultivation. Whatever produce remains after providing for them forms the annual exporting power of the province.

One expense on cultivation is the erecting and keeping in repair very extensive farming buildings. The towns and villages are all built on elevations, which appear to have been thrown up by the force of the sea, probably before any embankments were formed, and then perhaps resembled such mud islands as are frequently seen on low shores. By great storms these may have been covered with sand, and then formed into compact elevated spots, higher than the level of the surrounding country, but not so high as the top of the embankment, which was afterwards constructed, and which rescued the whole country from the sea. These elevations are locally called wharfs. On one of the largest of them, about 250 acres in compass, the city of Embden is built, and the other towns and villages, with the very few lone houses, are all on similar but more contracted spots. As the whole of the cattle, with the hay, straw, and corn, must be secured as well from the floods as from the frosts and snows, a farm is necessarily provided with very substantially-built barns, stables, cow-houses, and sheep-houses, besides granary and cart-lodges, sufficiently capacious to contain all the live and dead stock of the farm. The first expense of erecting these buildings is very great, from the scarcity of timber, and the want of stone. They are generally esti-

mated to be worth from one-third to one-fourth of the value of an estate; and the constant need of repair, added to the interest of the capital, amounts to a heavy charge on the land. On a farm of 80 or 90 acres, the buildings were estimated at 400*l.* sterling, whilst the land, without any building, would not be worth more than 1,000*l.*

Another weight on the agriculture arises from the nature of the climate, from the severe and frequently long frosts, and from the floods, which cover the whole surface before the frosts commence, and for a long period after their solution. From this state of the weather nearly one half of the year is necessarily passed in inactivity, both by the horses and the laborers on every farm.

On the other hand, the wages of the laborers are very low; they commonly live with and like their employers, and besides their board, are paid about 3*d.* per day in winter, and 6*d.* in summer. When men are hired by the day in summer, the only season in which they can obtain employment, they are paid from 1*s.* to 1*s.* 3*d.* The daily food of a laborer, in the house of his employer, was stated by a practical man to cost between 7*d.* and 8*d.*

The chief tax is the *grundsteuer*, or land tax. On the whole province it amounts to about 27,000*l.* per year; but as the very worst lands, consisting, as has been stated, of 240,000 acres, are not rated, that sum is extracted from about 430,000 acres, and from the houses in the cities. Commissioners distribute this levy according to the quality of the soil, and thus it is levied with most weight on the best lands. It was stated to me, that some of the best lands were charged as high as a thaler the grass, a local measure of ground nearly equal to an English acre. This would amount to 3*s.* 3*d.* the acre. The recent elevation of the embankments, with the repairs occasioned by the calamitous flood of 1825, had caused a demand on the same lands to be made, at the rate of 10*s.* the acre.

The value of land, as may be supposed from the different qualities of the soil, already noticed, varies extensively. There is a considerable capital in the country ready to be invested in land, whenever sales are to be made. As the gentry are far from being rich, and the merchants are but inconsiderable, either in number or as capitalists, the accumulation of capital has chiefly been created among that, the larger portion of the yeomanry, who possess and occupy the good lands, in portions of from 80 to 140 acres, who, by industry in their work and parsimony in their mode of living, have been enabled to accumulate savings. This class of persons have no other view or knowledge of investing their reserve of money, but by purchasing more land. Owing also to this way in which the capital is distributed, there is no want of tenants ready to take farms, when any of the better descriptions are to be let, at what may be considered a high rent.

Some rich pasture land which I saw had been purchased at about 18*l.* the acre, and was let at 22*s.* the year, the proprietors paying all taxes, and the tenant keeping the buildings in repair. More rent

would have been given, if permission could have been granted to break it up and sow it with rape and corn. On lands adjoining, where the crop of oats was partly cut, and in part quite fit for cutting, which appeared to be very good, I learned that the average annual produce amounted to half an Embsden last the grass, or nearly forty bushels the acre. I should think it to be equal in quality to such lands as in Lincolnshire or Somersetshire would now let at 45s. per acre; but somewhat of less relative value, on account of the later period at which the grain ripens, and the consequently greater risk of its being injured by the autumnal rains before it can be harvested.

As this is the kind of land on which the exportable part of the grain is produced, it has appeared not altogether useless to pay more attention to the circumstances that relate to it than to the other soils of the province. Those gradually descend in their productive power, and consequently in their value, till they may literally be pronounced of no value whatsoever. The nearest approach to this worthless land is, however, in some degree made of use by settling on them numbers of poor, who form what is locally termed a colony. They are established on the heath lands belonging to the crown, generally by the side of a road, with a depth behind their cottage, extending over a space of from four to fifteen acres. The more industrious of these people, by their labor improve the soil, and some, by great parsimony and abstinence, are enabled to convert their wastes into decent means of subsistence, whilst others of them too often present to the traveller pictures of privation and distress. It would be long, however, before those divisions of a country could raise their cultivation to such a state as to produce more than sufficient for their own consumption.

As apprehension has been expressed with regard to the possible quantity of oats that might be sent from East Friesland to Great Britain, it may be proper, therefore, to estimate what the actual cost is to the grower in that country.

When pasture land is first broken up, it is generally sowed with oats. As such land has, for a space of time previous to its being ploughed, been fed by cattle, and its powers of production nourished rather than exhausted, it will, on the average, yield about five quarters of oats to the acre. Such is at least the estimate generally made, though in some few cases the produce is much greater, and in a great many cases somewhat less.

	£.	s.	d.
The rent of such land, including all taxes, is per acre	1	2	0
Annual proportions of the repairs of the buildings	0	2	0
A day's work in ploughing	0	4	0
Five bushels of seed oats, 1s. 6d.	0	7	6
Sowing and harrowing	0	0	6
Cutting, binding, and placing in shocks	0	2	8
Thrashing 40 bushels, at 1d.	0	3	4
Drawing to the barn	0	0	6

	Brought over	2	2	6
Carriage to the market, or to the nearest port	- -	0	2	6
Hire of sacks (as the farmers do not keep them)	- -	0	0	10

Being on 5 quarters, at 9s. 2d. £2 5 10

I have reason to think that this calculation is nearly accurate as to the cost of oats, it being the result of various inquiries among cultivators, and because each of the farmers with whom I conversed stated, that they should be satisfied, if they could be assured of a fixed price at 12s. per quarter. Supposing a farm of 70 acres to yield a profit on each acre, of the difference betwixt 9s. 2d. and 12s. or 2s. 10d. on each of the 5 quarters, it would leave for the subsistence of the farmer and his family, and for replacing his live stock and implements, 47l. 15s. which, in the parsimonious manner in which they live, would be deemed an ample remuneration. As the average prices for the last 59 years, from 1771 to 1826, appear by the account, Appendix, No. 1, taken from the official register, by which the rent of the royal domains is governed, to have been 12s. 3d. per quarter, it may serve to account for the capital before stated to have been in the course of years accumulated in the hands of this class of yeomanry. It may also show that the heavy complaints of low prices are not without reason, to remark that during the last eight years, with the exception of 1826, when not sufficient for the farmer's consumption was grown, the average price has been only 7s. 1d. per quarter.

Though the preceding estimate has been made of the price of oats grown on the best land, I am disposed to think it will be nearly applicable to lands of the different degrees of inferior fertility, even down to such as require 6 bushels of seed to yield a crop of 20 bushels.

On each step of decreasing fertility, the rent and taxes rapidly decline, till, at the last point, their amount is almost nominal. The cost then is wholly the labor, which is much lower, when compared with the rent and the fixed charges, than it is in England, France, or the Netherlands. Thus, on land occupied by the colonists before noticed, the labor of a family on land paying in rent and taxes less than sixpence an acre, will in a very few years, by spade labor, after beginning with potatoes, procure at the rate of 15 or 16 bushels of oats per acre, from as much land as they can manure. The value of their labor is the only part of the cost worth considering, and, as far as such labor can be estimated in money, it would probably amount to nearly the same by the bushel, as is shown by the estimate to be the cost, when that cost consists of the rent and taxes, and the labor of cattle and of men.

On land, between the two extremes of the highest and lowest degree of fertility, producing an annual average crop of 27 or 28 bushels of oats to the acre, the rent and taxes would amount to less than in the estimate; as the soil is lighter than in that estimate, and had been previously broken up, it would be less expensive to plough

it, and the produce being less, the cost of cutting, thrashing, and carrying to market, would be less per acre; so that probably at 12s. per quarter, as much profit would be left for the grower as on the other suppositions.

No notice has been taken of the exhaustion of fertility consequent on the production of a heavy crop of oats. It would lead too far to compute the value of such exhaustion, though it should be considered as a part of the cost of that crop. The crop of oats is succeeded by a clean fallow, which causes an outlay of 1*l.* 12*s.* 6*d.* per acre, and the loss of a year's rent and taxes, 1*l.* 2*s.*, which two sums, with the interest on them, if divided between the seven crops that succeed the fallow year, will make them appear to cost more than they really do, and the crop of oats to cost less; for if the crop of oats had not intervened, the nutritive matter extracted by it would have been left in the soil, to favor the products of the succeeding crops of the rotation.

Whatever may be the cost, it seems clear, that in former years, during a long series, the growth of oats has been beneficial to the cultivators, and that during a late course of years it has been rather a losing operation. It does not appear, however, that the profitable periods very much stimulated to increase the quantity grown, or the losing periods to check their growth. In fact, when land is peculiarly, not to say exclusively, adapted to the production of any particular crop, the farmer will grow it, however uncertain may be the price at which it can be afterwards disposed of.

In East Friesland, as elsewhere, there was no stock of old corn. The warehouses at Leer and Embden were empty. All the oats in the country had been shipped for England, and the first new oats of the then-gathering harvest, which had been thrashed, had been purchased with great eagerness, at the price of 20*s.* per quarter, with the hope of their being in time to be admitted here, before our ports were closed. Bread corn had in the preceding year been somewhat deficient, and as in the medium years very little more than sufficient for home consumption is raised, rye, the chief bread corn, had advanced in price, and was quite as high as wheat, although of the latter there was no store in reserve.

From the circumstances of the yeomanry, many of them can keep their corn in years of low price, and most feel a pride in doing so; and though in small portions in the hands of individuals, yet when it has been pent up by our restrictive laws for several years, they can pour in such a quantity as is large for so small a country, though but a mere trifle in comparison with our regular consumption.

It appears, that in the ten years from 1817 to 1826, there was sent here 206,257 quarters, or on the average 20,625 quarters annually; but during the first seven years of that series, the annual average was only 7,409 quarters, whilst in the three last, the average annual quantity amounted to 50,131 quarters.

As so many cows are kept in this province, the sale of butter,

though estimated at only 100 pounds from each cow, is more relied on, for the benefit of the farmer, than the cultivation of oats.

A large quantity of rape seed also is raised, for which the demand is tolerably regular in Holland, and it is usually sent there to a moderately profitable market, whilst feathers and quills, from their numerous geese, form a small subsidiary benefit.

That part of the dominions of the Duke of Oldenburg which is situate in Westphalia, for he is sovereign of two other small territories, one near the Baltic, and the other near the Rhine, are much more extensive than East Friesland, but much less productive. The soil is mostly sandy, and covered with a black heath, but on some few and contracted spots there are found either clay or loam, and these have been brought into cultivation, but scarcely produce sufficient food for its scanty population and their small stock of cattle.

In the northern portion of this principality, on the sea-shore, and on the banks of the rivers Jahde and Weser, there is a narrow strip of rich marsh land, protected from ordinary inundations by either sand-hills or lofty and strong embankments. It extends from the shore, in breadth varying from 3 to 6 miles, and enjoys the same fertile qualities as are noticed in the observations on East Friesland. It is on this tract that the corn is produced which forms the chief of the exportable commodities from the ports of Varel, Bracke, Elsfleth, and Kniphausen. Though this dukedom is nearly double the extent of East Friesland, the quantity of good land is much less. The live stock consists more of sheep, some flocks yielding fine wool, and of horses, about 4,000 or 5,000 of which, chiefly when foals, are sold to the neighboring countries. The number of cows is inferior. The population is also less dense, the inhabitants on 1,400,000 acres not being more than 210,000, though they have considerably increased in numbers since the census of 1817, when they were found to be 185,589.

In passing through this duchy, I remarked a great number of new colonial establishments, especially within a few miles of the city of Oldenburg. These resemble what have been noticed in East Friesland, and exhibit the various shades between the result of activity and skill in cultivation on the one hand, and that of indolence and awkwardness on the other. This mode of disposing of that portion of the population, which when capital is scanty can obtain no employment, seems both humane and beneficial, and appears to be extensively spreading over those countries, in every part of the Continent, where necessity has first caused its adoption. Whatever condition the poor lands on which they are established may at some future period attain, it must be a long time before they can produce much corn beyond what the subsistence of the laborers require; and at present, though it may not be improper to be noticed, has no bearing on the subject of the prohibitory or protecting corn laws of other countries.

When I was at Oldenburg, I was informed that the granaries in

the city, as well as those of *Elsfleth* and *Bracke*, were quite exhausted of oats, though in the year 1823 they had contained together upwards of 13,000 quarters. No wheat, except a small parcel imported from the *Baltic*, was to be found, nor either rye or barley in them. The harvest was in forward progress, and a few new oats had been already brought to market, which, from the absolute want, had been sold as high as 20*s.* per quarter. The prices have been nearly the same as those of *Emdden* and *Leer*, during a long series of years. The cost of production and of conveyance to the places of shipment, are also too nearly resembling what has been stated respecting *East Friesland*, to make any further calculation on these subjects necessary.

The districts of *Jever* and *Kniphausen*, which comprehend, for their extent, the greatest proportion of the best marsh land, afford more exportable produce than any portion of equal extent in *East Friesland*; but those districts, added to that on the banks of the *Weser*, form so small a portion of the whole duchy, that *Oldenburg* has far less means of supplying other countries with corn than *East Friesland*.

The whole exports to Great Britain in ten years, from 1817 to 1826, according to Appendix No. 4, have been as follow:—

Wheat - - 10,890, or, on the average, 1,089 yearly.

Rye - - - 403, all in the year 1826.

Barley - - 7,917.

Oats - - - 44,800, on the average yearly 4,480.

The same remark may be made here as elsewhere, that it is only when the export of corn has been repressed by restrictions that any quantity has been ever furnished deserving of notice.

In the ten years from 1817 to 1826, the whole quantity of wheat exported from the duchy of *Oldenburg* was only 10,890 quarters, or on the average 1,089 quarters annually. On oats, eight years of the period gave an average of only 607 quarters, whilst the two openings for that grain in 1824 and 1826 show an average of those years amounting to 18,993 quarters.

I am led to believe, by communications from our Vice-Consul, received through Mr. Consul-General Canning, that the merchants of *Bremen* have at times kept stores of corn at the port of *Bracke*, within this duchy, for the sake of more expeditious shipment. According to the same communication, it appears, that in 1823, at that place, at *Elsfleth* and in their vicinity, there was in store in the hands of speculators about 1,500 quarters of wheat, 1,700 of rye, and 13,640 of oats. At present there is none, except that in the hands of the farmers, which, after the large comparative export of the 2 or 3 late years, must be very inconsiderable.

The other exports of *Oldenburg*, as of *East Friesland*, consist of rape-seed, buck-wheat, butter, cheese, bacon, hams, tallow, hides, wool, feathers, and quills, but all in small quantities.

The corn, including rape-seed and buck-wheat, forms about half the amount of the whole exported produce. I believe much of the foreign trade is carried on for account, or by means of the capital, of the merchants of Bremen.

The city of Bremen, though, from the freedom it enjoys, both commercial and political, from the justice of its government, and from the unaffected hospitality of its citizens, an interesting spot, is, as far as regards the particular trade in corn, but of little consideration.

Though the river Werra, which comes out of the Saxon duchies, the Fulda, which comes through Hesse Casel, and the Line, which passes through Hanover, all unite their streams in the Weser before that river reaches Bremen, the corn which in common seasons is brought by them scarcely more than suffices for the consumption of that city. Thus, in the three years 1824, 1825, and 1826, the whole quantity of wheat imported from the Upper Weser was 38,670 quarters, of which the consumption amounted to 33,270 quarters, leaving for the ports on the Lower Weser, and for exportation to foreign countries, only 5,400 quarters, or 1,800 quarters yearly, on the average.

The rye which descends the Weser does not suffice for the consumption of the city and its territory. In the three years before noticed, the whole quantity brought from the Upper Weser was only 34,000 quarters, and the consumption 61,517 quarters, thus leaving a demand of 26,517 to be supplied from the sea and the Lower Weser. The barley from the Upper Weser, in the same years, was 66,180 quarters, and the consumption 39,272, thus leaving for foreign trade, and for the inhabitants on the Lower Weser, 26,908 quarters, or at the rate of 8,969 annually.

The foreign corn trade of Bremen, as far as it extends, is one of speculation, carried on by imports from the Baltic, and when such an opening occurs in England, France, Spain, Portugal, or Madeira, as will admit of a profit, by shipping to those markets.

The imports from foreign countries for three years, including what comes from the Lower Weser, where very little wheat is grown, appears to have been—45,630 quarters of wheat; 45,980 ditto of rye; 24,250 ditto barley; 3,470 ditto malt: thus the barley and malt together about serve for the consumption.

The growth of oats and beans is more extensive, from the nature of the rich marsh land, both above and below the city, but chiefly from that part below it, including also what is brought by sea. It appears, that about 95,300 quarters of oats must have been consumed in the city, in its territory, and in the neighboring towns and villages in the kingdom of Hanover, within the three years in question, or 31,473 quarters annually. The whole exports in the same period were 64,180, or 21,393 annually. The export of 1826, the crop of which year was deficient, reduced the stock in granary, from 33,840

quarters, which were there deposited 1st January, 1824, to 6,410 quarters, which was all remaining on the 1st January, 1827.

The districts that come in contact with Bremen, or have access to it by water, are well adapted for the cultivation of beans, and in the three years here noticed there have been exported 30,980 quarters. Some of these must have been old stock from the granaries, as the importation was only 17,520, whilst the exportation was 29,860. It appears that on the 1st of January, 1824, there were pent up in the granaries 21,610 quarters; but when they were released, by the opening of foreign markets, that stock was reduced on the 1st January, 1827, to 1,120 quarters.

The navigation of the Weser above Bremen, like that of all rivers of long course, is very unfavorable, especially during the months of summer. When I was at that city a vast number of loaded craft had been detained a long time, for want of sufficient depth of water to ascend the stream; and near two months later, when I was at Munden, in Hanover, where the junction of the Fulda and the Werra form the Weser, many barges were waiting for sufficient water to descend to Bremen. The lower navigation, and the trade generally, it is hoped will improve, by a change lately effected between the King of Hanover and the Republic of Bremen; by which the latter will be enabled to construct a good harbor at the town of Elsfleth, on the bank of the river below the city.

An improvement in the internal navigation, might increase the facility of bringing from the extensive countries on the banks of the tributary streams of the Weser, a greater quantity of grain. But the population in those countries is increasing with a degree of rapidity so much greater than the pace of improvement in cultivation, that there is no probability of the latter overtaking, and far less of its preceding the former.

The stock of wheat had been reduced, and according to the statement furnished to me, consisted of about 20,000 quarters mostly brought from the Baltic, some of which was understood to be under orders for the south of Europe, and all of an indifferent quality.

The Duchies of Mecklenburg-Schwerin and Mecklenburg-Strelitz, though under different sovereigns, are politically connected by an assembly of the States of the two dominions being formed into one legislative body, and by one supreme court of judicature exercising legal power, in cases of appeal to it, over the inferior tribunals of both duchies. They may, however, with greater propriety be viewed together in an agricultural light than a political one. The soil and climate are nearly similar: the land is divided in a similar way, the laws are the same, and they have the same common outlets for whatever surplus produce they may have to send to distant markets.

The district is in general a level plain, with undulations of no great inequality. In the centre, from east to west, is a ridge, no where

elevated more than two or three hundred feet above the level of the sea, which divides the course of the several streams of water that rise in the country. All the rivers on the north side of the ridge run to the Baltic, and all to the south of it empty themselves into the river Elbe, which touches the southern boundary. On both borders of this ridge, the soil is a poor sand, covered with heath. Few tracts in any part of Europe are more miserable in cultivation, or more thinly inhabited, than that between the two cities of Schwerin and Gustrow, a distance of nearly 40 English miles. To the south of this district, the soil is somewhat better; and beyond Gustrow, towards what was formerly Swedish Pomerania, the sand gradually changes into a good loam, which when well cultivated, is very appropriate for the growth of rye and wheat. Near the shores of the Baltic, the soil is for the most part a meagre sand, but intermixed with stripes of loamy land, capable of bearing rye and some little wheat. With the exception of the sandy heaths, the face of the country may be described as cheerful and pleasing; the land is mostly enclosed, in rather too large divisions, indeed; the woods, which are extensive, are scattered over the district, and there are abundance of fresh water lakes, on whose borders good meadow lands occasionally present themselves. The climate was represented to me to be very severe, and very changeable in the winter-months, which, as the spring fills but a short interval, may be said to occupy the greater part of the year. This condition of the weather has an influence on the appearance of the country. From its severity, it is necessary to be provided with buildings sufficiently extensive to contain all the live stock, and all the hay, corn, and straw. Hence a gentleman's house, commonly very large, displays around it, besides laborers' cottages, ranges of barns, stables, cow-houses, sheep-houses, granaries, cart-lodges, and harness-rooms, more than five times as great as would be required in England for the same extent of land; and the country, at a passing view, seems to be much more advanced towards prosperity than it is found to be on a closer examination. On a nearer approach, it is scarcely possible to avoid feeling disgust at the miserable filthiness and apparent poverty of the peasants' dwellings and of their clothing, though a difference may be discerned on the several properties, according to the greater or less degrees of prudence and kindness of the various proprietors.

The system of cultivation prosecuted in Mecklenburg differs from that which prevails in almost every other part of Germany, and, indeed, of continental Europe, except Holstein and Sleswick. Instead of the (*dreifeldwirthschaft*) three course rotation of a year's fallow, succeeded by winter sown corn, and that by spring corn, there is, almost universally, the (*koppelwirthschaft*) enclosure husbandry introduced. After a whole year of fallow, three corn crops are sown in succession; in the third, grass seeds are grown, which make hay in the next year; and the sixth and seventh years the

fields are used for pasture. This, though an improvement on the rotation of their neighbors, seems to us to be an injudicious course, but, perhaps, more attention to the soil, the climate, and many local circumstances, than a casual observer can duly exercise, might afford reasons to justify the practice.

The division of property is considerable; much of it is in large parcels, either parts of the domains of the sovereign, or of knightly, monastic, or other feudal tenure; whilst some few freeholds are in smaller divisions, and most of the *bauerhoffs* or peasants' holdings, under the large estates, are small.

The ancient feudal system which formerly prevailed over all Germany, as well as in the rest of Europe, has been gradually changed. The peasants were in a state of slavery of a mitigated kind. They could acquire, enjoy, and transmit property, but they were *adscripti glebe*, and bound to the soil, so as to be sold or let to farm with it. The government took measures, on the restoration of peace in 1815, to abolish this relic of the barbarous ages in a gradual manner; and about five years ago, all the peasants who still remained in the condition of serfs, for many of the proprietors had previously emancipated those on their own estates, were declared free, though the actual completion only finally took effect two years ago. They can now repair to any other place to labor, and are no longer under any kind of personal control. Very few changes, however, have taken place, either in their residences, their time of labor, the payments for their labor, or in their habits or appearance. All seemed to agree in the opinion that no visible alteration was made in them yet, but great differences of opinion existed, as to whether the change would, on longer trial, be found beneficial or injurious to them. All, however, lamented the low price of ardent corn spirits, (every one being allowed to distil without tax or restriction), and the prevalent tendency to the excessive use of them.

Though some of the largest estates in Mecklenburg are cultivated for the account of the proprietors, through the instrumentality of stewards or bailiffs, yet many of what may be denominated secondary sized estates, are in the hands of proprietors who reside on them, and attend carefully to all the operations of husbandry. It was my good fortune to form acquaintance with several noblemen and gentlemen of this description, as well as some renters of large estates; than whom I have never met with more intelligent, enlightened, and accurate men in any country. I found them all ready to communicate information, and disposed to do it in that way that could make it most easily comprehended. One among the number, acknowledged by each to be superior to all, I must, however, notice by name—Mr. Von Thünen, of Tellow. This gentleman, to very great natural powers, has added scientific attainments of the highest kind, and applied them to the practical purposes of agriculture with the greatest success.

Whilst on a visit at his house, after much interesting conversation, I requested him to allow me to propose to him a series of questions, to which I expressed my wishes for deliberate answers, as fully as his time would admit.

These answers followed me in succession, and they form the valuable facts detailed in the Appendix, No. 10. Part 1, 2, and 3. I have the fullest reliance on the correctness of the statements and calculations, and think it not possible that any person who shall examine them, if he has paid much attention to agricultural details, can have a doubt of their fidelity, and even their minute accuracy. No accounts, either of official men or of merchants, can be kept with more correctness than his; and every fact, during the course of many years, is carefully registered and easily referred to.

His estate at Tellow, of about 1,150 acres, is naturally some of the best land in the province, a loamy soil, light to till, not peculiarly liable to twitch or couch grass, and easily kept dry. The produce from it is not therefore to be taken as the average of the country, even when the land is equally well managed, much less can it be so taken, because perhaps few, if any other, portions of the land have so much attention, labor, and manure, applied to them.

Although I obtained from various individuals a great many portions of useful information, as far as it went, it only corroborated that which I have received from Mr. Von Thünen, and could not be reduced into so statistical a shape as his answers present. I am therefore induced to adopt his representations, with the fullest confidence, in this part of my report.

In considering the value of land, it must be remembered that the extensive buildings for agricultural purposes, and for habitations, are nearly one-third the value of a whole estate.

An estate of the best quality of soil, containing 1,834 acres, was sold, including the buildings, for 13,960*l.* sterling. If the buildings be valued at a third, and they probably cost much more, the value of the land alone would be 5*l.* 4*s.* 2*d.* per acre; but with the buildings included, 7*l.* 12*s.* 8*d.* Another estate, for which the owner had paid 10,550*l.* about twelve years before, consisting of 5,642 acres, whose soil is of the poorest quality, had been recently sold for 6,468*l.*, or, omitting all value of the buildings, at 1*l.* 2*s.* 11*d.* per acre. These are two extremes, whilst the average value is calculated to be, at the present time, for all the estates in the duchy of Mecklenburg-Schwerin, from 3*l.* 7*s.* to 3*l.* 14*s.* per acre, allowing nothing for buildings.

According to the best opinions I could collect, and corroborated by the gentleman I have named, the decline in the value of estates within the last ten or twelve years has been at the rate of 15 or 20 per cent. on those of the best soils, and from 30 to 40 per cent. on those of the inferior soils.

The taxes in Mecklenburg are lower than in most parts of the

Continent. The amount paid to the state by the land is, on the average of the whole, 1*s.* 10*d.* per acre. The local taxes vary in each district, and almost in each parish, and no average approaching to accuracy could be formed by one who merely paid short visits to a number of individuals. Mr. Von Thünen states his own local taxes on an average of the period from 1810 to 1815, to have amounted annually to 45*l.* 15*s.* sterling, or 9½*d.* per acre.

Farms of a medium extent, viz., from 320 to 1,600 acres, yield the greatest proportionate rent: those larger yield somewhat less; and those smaller than 300, and let to common peasants, yield the least of all. The leases are usually from 12 to 21 years; but some are only for six years, whilst some few others are extended to 28 years.

The rent varies excessively, as may be supposed from the various qualities of the soil. The best farms are rented as high as 12*s.* per acre. The medium soils range from 6*s.* 4*d.* up to 8*s.* 4*d.*, and some few as high as 10*s.* 6*d.* per acre. The sandy districts in the southern part of the duchy are let from 2*s.* to 3*s.* 2*d.* per acre. The various taxes and other outgoings borne by the proprietor, as enumerated in the Appendix, amount to about 1*s.* per acre.

I am disposed to think, from other sources of information, that the larger portion of the land would not produce a rent of 5*s.* per acre, if let, especially if that is included, as it ought to be, which is occupied by mere peasants, who pay commonly but half the rent which the farmers of large estates, from their superior manner of cultivation, can afford to do. The average value of the land is not estimated to be more than from 3*l.* 7*s.* to 3*l.* 14*s.*; and as land scarcely pays 5 per cent. on the capital, even in prosperous times, it can rarely be let for more than 5*s.* when the landlord's portion of the burdens amount to 1*s.*

The rate of labor in this country varies much, as well as the mode of payment. In general it consists partly in money, partly in produce at a fixed price, below that of the market, and partly in various accommodations, such as the keep of a cow, a house, flax-ground, potato-patch, and turf or wood for fuel. This mode of remunerating labor makes it difficult to generalize its rate. Mr. Von Thünen has taken the pains to detail and to analyse all those several minute portions, as far as relates to his own estate. He is a liberal master, and probably his rate of payment may be taken as the maximum of the country; whereas those who are more needy, or more griping, may perhaps get their poor laborers to work for less reward.

Though the observations on labor in the appendix are highly worthy of consideration, the following extract will show what, according to Mr. Von Thünen's estimate, is the cost of a day's labor, reckoning three 'days' work of a female to be equal to two days' work of a man:—

		Day's Work.	
		<i>s.</i>	<i>d.</i>
(A.) During harvest	- - - - -	1	4
(B.) During haymaking	- - - - -	1	1½

(C.) In all other kinds of husbandry :

1st. If done by the piece, or under inspection,

	s.	d.
In Summer - - - - -	1	0
Autumn - - - - -	0	9
Winter - - - - -	0	8

2d. In the ordinary way, without any inspection,

In Summer - - - - -	0	9
Autumn - - - - -	0	6 $\frac{1}{2}$
Winter - - - - -	0	6

It is within so recent a period that the feudal system of personal service has been abolished in Mecklenburg, as to leave room to believe that the feelings and habits produced by it must still, in some degree, influence the rate of the wages of labor. The proprietor of an estate can scarcely yet look on those born on it, who with their progenitors have been the attached dependents on him and his ancestors for generations, with the same indifference as the hirer views the mere hireling, between whom there is no other bond of union than the bargaining on the one side for as much work and as little payment as possible, and on the other for as much payment and as little work as he can obtain. The relation between the lord and the serf may at present continue to exercise its influence, though the law which created it be changed. It is to this may be attributed the number of persons maintained on the estates in Mecklenburg. Thus, on the estate of Mr. Von Thünen, where there are only 804 acres of tillage land, one quarter of which are constantly in pasture, there are maintained, by the labor performed on it, no less than 128 human beings, of whom 85 are of mature age. I found the ratio of population to be much higher on some other estates. The proportion of children under 14 years of age, to the whole number of people, indicates a rapidly increasing population, which is confirmed by the accounts regularly kept of births and deaths; and causes some anxiety for the future condition of the laboring classes, amongst those who think their change of condition has been too rapidly hastened forward.

It is difficult to make an accurate scale of effective labor in any country. In England, the skill and exertion applied to agricultural labor differs very materially in one county, or even one division of a county, from that exercised in another. I have attempted in various countries to estimate the portion of labor performed by them, both by men and by working cattle, in order to make a comparison between them and this kingdom; but to make such a comparison complete would require much more time, and a greater collection of data, than could be easily gained. In the Appendix to this Report will be found many statements of the quantity of work executed in the several stages of agriculture, both by men and horses; but I must leave the task of generalizing and comparing them with our

own laborers' performances to those who have leisure to collect the British data on the subject.

As far as my individual observation goes, I am disposed to think, certainly not with much confidence, that our laborers perform nearly one-third more work, and perform it better, than is done in any of the several continental countries I have visited, excepting, however, the Netherlands, where the work is admirably performed, and whence our best practical farmers have much to learn.

The cost price of wheat, as of other corn, must vary according to the quantity produced in each year, according to the rate of wages in such year, and, in some measure, according to the prices which are obtained for the parts of the cows and sheep that are disposed of, and of the butter, cheese, and wool, which they annually afford. It becomes hence almost impossible to ascertain what is the cost of any particular description of corn in any one year; and very difficult to approximate to it in a series of years. Mr. Von Thünen has been so good as to furnish me with a calculation founded on facts within his own experience, and recorded by himself at the time, of the expenses of cultivating 536 acres of arable land, during a course of seven years, in the following rotation, viz.—1st, fallow; 2nd, rye; 3rd, barley; 4th, oats; 5th, pasture or hay; 6th and 7th, pasture.

The annual expense, most satisfactorily pointed out, appears to be 561*l.* 14*s.* 6*d.* or 23*s.* 11*d.* per acre. This makes the cost of rye on the farm two shillings and six-tenths, or 2*s.* 7*d.* the bushel, or 20*s.* 8*d.* the quarter. The cost of wheat to that of rye, is estimated to be as 5 to 4, arising from the greater cost of the seed, the greater exhausting power of the crop, the greater expense of harvesting, the additional labor of harrowing and rolling, and the greater cost of carrying 24 miles to market. In this way of calculating the actual cost of wheat, on an average of a course of six years, would be 25*s.* 10*d.* per quarter.

The charges on this quantity, for carrying to the English market, including shipping expenses at Rostock, freight, insurance, landing charges, port dues, measuring, factor's and merchant's commission, and other expenses, amount to about 14*s.* per quarter, making the actual cost in London to be 40*s.* This is the cost, even if it be sold before it is landed; but if not, other expenses must be incurred for warehousing, rent, and ultimately delivering; besides some loss in measure. The best wheat shipped from Rostock and Wismar is of a quality inferior to the average of English wheat, both in weight and colour; so that if English wheat be at the average of 60*s.*, this kind would not yield in our market more than 55*s.*, from which must be deducted whatever amount of duty the legislature in their wisdom may see right to impose on foreign wheat. This calculation is made without any allowance of a profit to the farmer, beyond the interest on the live stock and implements, or any income to the proprietor, beyond interest on the value of the buildings. It is to be observed also, that the estate of Tellow, from whence the facts are drawn

which form the basis of this calculation, being cultivated in the best manner, it produces more corn per acre, and consequently produces it cheaper, than the average of the same province.

I met with no proprietor or farmer whose average crop came within a seventh of that of Tellow. When wheat is badly cultivated, it grows, too, of an inferior quality. I am, therefore, disposed to think, that the actual cost of the average wheat grown in Mecklenburg is full 5*s.* higher than this calculation; and on account of its inferior quality, would not yield in our markets the same price within 3*s.* per quarter. I am induced to judge the value of the average wheat of Mecklenburg, being taken at 8*s.* below that of English wheat, cannot be far from the truth.

It appeared in the evidence of Sir Claude Scott, before the committee of the House of Lords, last year, that wheat of tolerable quality had been sold at Rostock at 18*s.* per quarter, at the time when, by other parliamentary papers, it appears that wheat was selling at Dantsic at from 27*s.* to 29*s.* per quarter. The expense of shipping and conveying from Dantsic to London is little, if at all, higher, including the town dues, than from Rostock to London, or the freight from Rostock to Dantsic would be scarcely more than 2*s.* The difference in price must arise from the inferiority of the quality of the wheat of Mecklenburg to that of Dantsic: and the average of Dantsic wheat is not higher than that of England, except at particular seasons, as after a wet harvest, when some of the dry wheat of Dantsic is in great demand, to enable the mealmen to convert our damp wheat into good flour.

It deserves to be also remarked, that no allowance is made in this preceding calculation for the profit of the merchant of Rostock, who buys of the farmer and sells to the Englishman. If credit may be given to the reports of capital created in that city by the trade in corn, there must have been an addition to the expense of conveying it from one hand to the other, which would advance the cost of it before it could reach the English consumer very considerably.

After visiting the cultivators of wheat in Mecklenburg, I had opportunities of conversing with the merchants of Rostock and Wismar, who have been chiefly engaged in the trade of that article. I was informed by them, that the greater part of the wheat came from the farms in such a state, as to make it necessary to skreen it over again before it was fit for the English market, in which operation a portion varying from 8 to 16 per cent. of the quantity was separated from it, and sold as inferior, or technically, tail wheat, being scarcely fit for any purpose but feeding poultry or pigs.

If the average of the wheat of Mecklenburg would cost, by the time it was landed and sold in this market, 45*s.* per quarter, without leaving any profit to the farmer or merchant, or any rent to the proprietor of the soil; if when English wheat was selling at 60*s.* it would not produce more than 52*s.*, there can be no reason to apprehend that any increase of cultivation of that species of corn will take place.

As it appears by the consular returns of prices of corn in the two ports of Mecklenburg, as laid before Parliament, that wheat has been for several years sold at much lower prices than the calculation here framed represents as the cost price of growing it, it may excite surprise that any quantity should be raised. It should, however, be recollected, that some few of the soils will produce rather more wheat than rye, at a cost of one-fourth more in cultivation; that the whole quantity of wheat produced is not more than one-seventh that of rye; and that wheat, when a scarcity opens markets in foreign countries, advances far higher in proportion to its value on the farm than rye ever does. It thus happens, that those who can afford to keep corn by them, from an expectation of a rise, will prefer wheat to rye, as offering the greatest profit ultimately.

The whole surplus quantity of wheat that Mecklenburg has, or probably ever can furnish, even if all were sent here, is so small when compared with our regular consumption, that if the whole were sent, even without any duty, it would raise the price in that country, but would scarcely affect our markets. If it came here annually as it was fit for sale, and was not pent up for a number of years, and then suffered to burst on us in quantity so much beyond the average surplus of the growth, as to produce that kind of panic which, of all things, is found to be most injurious to regular and fair commerce, the effect would be scarcely felt. It has been deemed proper to enter more fully into the particulars of its cost, partly from having obtained more accurate and minute details than were to be commonly met with, but chiefly from the persuasion, that in no part of the world can wheat be grown and brought to England at so cheap a rate as in Mecklenburg.

I was assured by all who were likely to be well informed, by proprietors, farmers, merchants, and official men, that the surplus produce of wheat never could, in a series of years, amount to 80,000 quarters; that if more than at present were grown, it would lessen the crop of rye, which already afforded scarce sufficient for the rapidly increasing population.

This representation is confirmed by the official documents in the appendix to this report. It appears by them, that the whole exports from Rostock, for the twelve years from the 1st January, 1816, to December, 1827, amounted to 447,062 imperial quarters; that from Wismar, in the same period, amounted to 248,421 quarters. Besides this, some is shipped at Boitzenburg, on the river Elbe, for Ham-
burgh; but I could not ascertain the exact quantity, because, in the accounts of that city, all that descends the river, whether from Mecklenburg, Hanover, Prussia, Anhalt, Saxony, and even from Bohemia, is blended together. I had reason to conclude, from several reports, that it could not exceed 5,000 quarters annually, if it amounted to so much; for the land in the southern part of the duchy, which touches the Elbe, is generally a poor sandy soil.

The exports will thus appear during twelve years, including the years of enormous export, 1817 and 1818, to have been—

	Quarters
Rostock - - -	447,062 wheat
Wismar - - -	248,421
	12)695,483
	57,950 annually
Boitzenburg - -	5,000
	62,950

Our own Custom-house accounts, in some degree, confirm this view of the limited quantity of wheat which Mecklenburg can furnish. This country is certainly the best market for good wheat when the ports are open; and when they are closed, and the corn must be landed under bond, our merchants are more liberal in their advances on consignments than those of the continental commercial cities. It must, therefore, under any circumstances, be most beneficial to send the most, of what is of a superior quality, to this kingdom.

It appears by the returns from our Customs, that the whole imports of the duchy of Mecklenburg, in the ten years, from 1817 to 1826, both inclusive, amounted to 349,262 Winchester, or 338,996 imperial quarters, being annually 33,900 imperial quarters. On this comparison it will be seen, that about one half of the produce finds its way, at one time or another, to this country.

It deserves to be noticed, that when corn was pent up, during the four years from 1821 to 1824, the whole quantity of wheat imported was only at the rate of 4,144 quarters: but when the prospect of an opening rose, a rush brought, in the years 1825 and 1826, no less than 100,565 quarters; and when the torrent thus pent up had passed, the imports of the year 1827, up to the 5th of October, were no more than 16,709 quarters, which have left the country quite bare of wheat.

The same observation may be applied to the other kinds of corn, when pent up by restrictive laws; thus, from 1817 to 1823, the whole annual importation of oats into Great Britain, from Mecklenburg, was only 7,843 quarters; but in the years 1825, 1826, and 1827, was 181,048 quarters, or at the rate of 60,339 for the three years. In barley also, in the five years from 1820 to 1824, the annual importation was only at the rate 4,384 quarters; and in the two following years, when a prospect of an opening arose, it amounted annually to 50,245 quarters.

Another account of the expenses of cultivation, which was procured through the kindness of Mr. Canning, is rather an estimate than a statistical representation. It represents the produce to be much below that of the estate of Tellow, and though higher, I believe much nearer to the general average of the country. Accord-

ing to this statement, it is necessary, in order to pay a profit of five per cent. on the capital invested in the land, to be divided between the proprietor and the farmer, that corn should be sold at the following prices; viz.—wheat, 40s. per quarter; barley, at 22s. per quarter; oats, at 13s. 4d. per quarter.

By this estimate, for the minute accuracy of which neither Mr. Canning nor myself can be vouchers, though I deem it an approximation to the truth, it however appears, that the prices of corn requisite to remunerate the cultivators must be governed by the higher or lower prices at which they dispose of the produce of their flocks and their dairies.

In every part of my progress I ascertained that no stock of corn remained on hand of the harvest previous to that which had been just gathered in. I was assured by several persons, that if their harvest had been delayed a week or two, they must have purchased rye to have furnished bread for their families. I saw, in some cases, the horses fed with inferior wheat, the precaution of steeping it being first taken, because the owners had no oats, and the price was higher than that of the tail wheat.

At Rostock, I was informed there were about 22,000 quarters of wheat in the stores, of which 11,000 or 12,000 was fit for the English market, some of it very dry brown wheat, of the harvest of the year 1819. That part not fit for England was destined to be sent to Holland, Portugal, and Madeira, before the winter should commence.

A letter from the Vice-Consul at Rostock to Mr. Canning, written after I had been there, contains the following reply to Mr. Canning's inquiries:—

“I estimate the quantities of grain stored at Rostock to be, of wheat, about 20,000 to 25,000 quarters; rye, about 7,000 quarters.

“Of oats and barley no old stocks are remaining, as they have been shipped in the course of this year. No estimate, on which reliance can be placed, can be made of the stocks of grain of the preceding harvest, which are still in the hands of the farmers; but it is generally believed, that, with the exception of wheat, there is no old grain stored in this country.”

At Wismar, I was informed that the stores contained from 3,000 to 4,000 quarters of wheat. The Vice-Consul was too ill to be seen, and my informant was a merchant to whom I was introduced.

The Vice-Consul has since written to Mr. Canning a letter, of which the following is an extract:—

“According to my calculation, there are about 10,000 quarters of old wheat lying here, but, with the exception of some few lasts, no quantities of rye, barley, or oats. I am also of opinion, that in this neighborhood there are no stocks of old corn in the hands of the farmers, except probably about 1,000 quarters of wheat.”

I do not think that in any part of the world wheat can be grown and conveyed to this kingdom so cheap as a limited quantity of somewhat less than 60,000 quarters annually can be from Meck-

lenburg; but if efforts were made to increase the quantity from 60,000 or 70,000 to 80,000 or 100,000 quarters, it must be at a high cost, both in the expenses of production, from working more land with the same portion of manure, and from an advance which would take place in the freight and other charges.

The farmers are so fully persuaded of this, that they turn their attention gradually more to the breeding of sheep, and to the productions of the dairy—to butter, cheese, bacon, and hams.

The dairies, however, are not so valuable as in many other parts of the north of Europe. I made inquiries of every agriculturist with whom I conversed, relative to the average quantity of butter yielded by each cow. I have reason to believe, taking the whole district through which I have travelled, that each cow does not produce, including those owned by the bauers or small occupiers, more than from 75 to 80 pounds annually.

Though such a quantity, when sold at 6d. per pound, affords but little encouragement, it is better than growing wheat, which for some years past has left a considerable loss when sold, instead of leaving any rent to the landlord, or any profit to the farmer.

It is not surprising that the state of agriculture of late years should have produced in some instances most distressing embarrassments in the pecuniary affairs of those engaged in that pursuit. Economy, and even parsimony, have not been found sufficient to prevent distress; and recourse has been had to the painful step of borrowing on the security of the estates, to relieve the pressure of temporary but irresistible demands.

This has given rise to an institution which may be properly denominated a land bank. It is a voluntary association, composed of landed proprietors, each member of which pledges his estate as security for the transactions of the corporate society. All the estates are valued and registered, and an account is kept in a public office accessible to all, of the mortgages, family settlements, or other incumbrances with which such estates are charged.

The association takes money from those who wish to invest it, at an interest of 4 per cent. It lends money to the members, on the security of the estates pledged, at the rate of 4½ per cent. interest; but in no case, in its loans, exceeds half the amount of the taxed value of the estate. The difference of half per cent. exceeds the expenses of the establishment; and this excess forms a reserve fund to meet contingencies. In a country where there are no public securities, or none that inspire confidence, it is of great benefit that some safe deposit should be created, in which the savings of the community can be placed at interest, where the principal can be secure, and the interest punctually paid.

The capitals of widows, orphans, and infirm or inactive persons; the reserve funds of civil and charitable corporations; and, in short, all trust monies, of which, even in the poorest countries, the whole mass will be considerable, naturally seek such places of deposit.

The estates of this land bank offer such security as is sufficient to inspire general confidence; and it is pleasing to know, that notwithstanding the depression of the landholders, arising from a train of circumstances which they could neither prevent nor foresee, their integrity and economy have hitherto been such, as to enable them to discharge the interest of the money they have borrowed of the association, and not to have given any cause for that body to seize on their property to recover arrears.

The kingdom of Denmark is divided into two parts, which differ from each other in the race of people by which they are inhabited, in the language they speak, and in the system of administration by which they are ruled. It may be convenient to notice each of the parts of the kingdom in the order in which I visited them. Denmark Proper comprehends the islands of Zealand, Fünen, Laaland, Langeland, Falster, Moen, and some smaller ones, and the peninsular province of Jutland on the continent. The province of Jutland has little to interest any visiter, and nothing to interest one whose chief object is to gain information respecting its surplus produce; for its production and consumption so nearly approach each other, and both are so insignificant for the extent of territory, that no inducement presented itself to view more of it than the small portion between the passage over the Little Belt and the boundary of the province of Sleswick. The extent of Jutland is about 5,600,000 acres, and the whole population does not much exceed 450,000 souls, thus giving to each person about $12\frac{1}{2}$ acres. Fish forms the chief food of a large part of the inhabitants; and the chief aliment of the remainder, furnished by the soil, consists of rye, buck-wheat, and potatoes. Some years furnish a small surplus of buck-wheat, and more rarely, and in very minute quantities, of rye. The wheat grown is barely sufficient for the consumption of the few persons who can afford to eat bread made of that grain. Mr. Thaarup, a gentleman very conversant in the statistics of Denmark, gives the quantity of wheat grown in Jutland in the year 1825 to have been 36,250 quarters, of which were consumed 34,000 quarters, or about two pecks for each person, leaving for seed for the succeeding year, a deficiency of about 6,400 quarters, to be obtained from the islands, or from Sleswick and Holstein.

The islands, especially Zealand and Laaland, are more fruitful, and enjoy a less severe climate; and though, as compared with the German dominions, the proprietors and cultivators are impoverished, yet, as compared with those of Jutland, they are said to be in somewhat better circumstances. Zealand, the largest of the islands, contains about 1,860,000 acres of land; and the population, including that of the capital, by the last estimate, appeared to be 445,993, having increased 114,190 since the year 1815. It is generally a flat country, elevated but a few feet above the level of the sea. The soil is evidently formed from corallines, which have been, in the

lapse of ages, converted into calcareous earth, and covered with sand, gravel, or clay, which thus, in some combinations, with a mixture of mould, becomes moderately fertile, and is easily worked. The climate is moist and variable, but generally favorable to vegetation. The frosts are seldom severe for a long continuance; and though the Sound and the Belt are occasionally frozen over, it has arisen, chiefly from the masses of ice formed in more northern climates, which have first choked up those narrow passages. The spring season is cold and windy; the summer, which begins in June and ends in August, is commonly very warm, from the shortness of the nights, which do not allow of time for the land to get cool. The autumn is protracted till the middle of October, and is the best season of the whole year.

The climate and soil of the other islands, which together are comprised in Denmark Proper, differ but little in their general character from those of Zealand. Fünen and Langeland form one province, stiff, and contain together about 830,000 acres, with 165,000 inhabitants. Laaland and Falster form also a province, extending over about 400,000 acres, with 70,000 inhabitants. These two islands are the most fertile, for their extent, and the most productive in wheat, peas, and beans, especially in the two latter.

Although in Denmark Proper, as well as in the duchies, personal slavery has been for several years abolished, there remain many traces of the feudal system, which have a pernicious effect on its agriculture. The lease, or life, or hereditary renters, are very numerous, and much of the rent they pay for the land is in produce, or in the form of personal services of themselves and their cattle. As they must attend, when called on, to labor either for the lord or the government, they often suffer in their own pursuits. On the other hand, such duty-work is commonly as ill executed as possible; so that the system is injurious to both parties, and, through them, to the public.

The high nobility, who are not numerous, being only one duke, 19 counts, and 12 barons, enjoy some exclusive privileges, and are exempted from some few of the taxes that are levied on the common nobles and the rest of the community. The greatest weight of taxation falls on the land, the occupiers of which also provide men for an army and a navy, much more numerous in proportion to the population and the revenue than is maintained by any other state in Europe. They pay tithes, which are collected by the government, and commonly divided into three portions. One of these belongs to the clergyman, one to the church, and one to the King, though there are deviations from this precise partition of them. The clergy have also houses and glebe lands of greater or less extent; and according to the rate of living in the country, and the ranks of society from whom they have been taken, are in tolerable circumstances. The land furnishes funds or labor for the maintenance of roads, bridges, and for some of the charitable institutions. There are great complaints of the inequality with which these imposts, whether in money or in labor are levied.

It is difficult in a country where rent is paid partly in kind, partly in labor, and partly in money, and the money is paper of a constantly fluctuating value, to ascertain the cost of production, or the rent paid for an individual portion of an individual estate. It is still more difficult to generalize or form any satisfactory average.

The particulars of one estate in Fünen which fell under my observation are as follow :—it consists of about 4500 acres, partly meadow, but chiefly arable. The demesne consists of about 800 acres, which the proprietor cultivates by means of his tenants. These are in number 36, each holding from 60 to 100 acres, for which they pay a fixed quantity of corn, and a stipulated portion of labor of themselves and their working cattle. The proprietor furnishes to each tenant six horses, with ploughs and waggons; if a horse dies, the tenant must replace it. The cows belong to the tenant. At whatever period the labor of the tenants and the cattle is required by the proprietor, it must be afforded, however it may interfere with his work on his own land. A substitute can however be sent, who can commonly be hired for about 6*d.* per day.

The proprietor has for his share all the produce which 800 acres, cultivated without any expenditure, can yield; and the corn paid by the tenants. He has also 150 milch cows, which afford between 50*lb.* and 55*lb.* of butter annually per head, besides a succession of calves and young beasts. He keeps likewise a small flock of 50 sheep. The taxes on this property, which are paid by the proprietor, including the king's, the poor, education, bridges, roads, and other local demands, amount to about 220*l.* per year.

Tithes are collected here as on other estates, but the distribution varies from the general practice. Two-thirds are given to the proprietor, and one-third to the parochial minister. According to an estimate which the proprietor communicated to me, the produce of corn, in a series of years, has been about six times the quantity of seed. No wheat is grown on the estate, but rye, barley, and oats. This property was offered for sale for about 12,000*l.* sterling, including the houses, lake, and woods; but as the owner was known to be in embarrassed circumstances, I was told he would gladly take for it 2000*l.* less, if he could even get so much.

I have reason to be satisfied that most of the proprietors were in a state of considerable embarrassment, and most of the estates deeply mortgaged. Such is the general state of the country, that it possesses little other capital besides the land, and the houses in the cities and towns. There are no reserve funds adequate to the loans which the landed proprietors require. For though there is a joint-stock mortgage-society, similar to that before noticed in Mecklenburg, Denmark does not supply the means of conducting it favorably. Recourse has been had, by the landed proprietors, to the capitalists in the commercial cities of Lubeck, Hamburgh, and others, and to that description of persons are the estates most deeply mortgaged. The heirs of one enormously rich capitalist in the last-mentioned city,

who lately died, had securities on a great number of estates in Denmark; several of which, when I was there, had been sequestered for the debts, and, if I can judge from the appearance and from all I heard, were a dead weight on the hands of those who had got possession by the foreclosure.

The case is nearly the same with the debts owing by the government. They are not, like ours, owing to the citizens of the same state, but to foreigners. The interest, therefore, on the private debts, on mortgaged estates, as well as on the public funds, is not retained at home.

The circulation in Denmark Proper is almost exclusively carried on by paper money. The notes of the bank being exchangeable for silver, maintain a uniform value, correspondent with the intrinsic value of that metal. They are issued of 1, 5, 10, 50, and 100 thalers; the thaler being worth, in English money, a fraction more than 2s. 1d. Neither this, nor any other kinds of paper money, finds circulation in the duchies, where all is metallic money. But in Denmark Proper there is much depreciated paper in circulation of more ancient date than the establishment of the bank (in 1819), which varies in its relative value to the new bank thalers, as much almost, and from as uncertain causes, as the funds of other countries. Notwithstanding the fluctuation, a royal order is issued every quarter of a year, which fixes, for the succeeding quarter, the rate at which one of these descriptions of paper is to be exchanged for the other, without reference to the actual difference to be found on the exchange. This rule causes an indescribable degree of confusion and embarrassment in all the transactions of buying and selling, and makes it very difficult to ascertain what was the price actually paid for any commodity in past periods.

In a country where there is little foreign commerce, and where no manufactories exist except those of a domestic nature, in which the people spin and weave their own flax and wool to clothe themselves, the embarrassment arising from a bad circulating medium must fall almost exclusively on the landed interests; and such is the case in Denmark, increased by the tax levied on them of 6 per cent on the value of all land, which has been imposed to form the foundation on which the bank of Copenhagen is now constructed.

The distress of the proprietors and cultivators of the soil was so great in Denmark a few years ago, that it was deemed by the government not possible to collect the rents of the royal domains, or the amount of the taxes in money; and corn was taken instead of it for a limited period. The price at which the corn was to be received was fixed by a decree; and as the price afterwards declined, those who perhaps could have paid the demands on them in money, found it their interest to deliver corn, especially whatever portion was of such a low quality as to be barely admissible. The accumulation which soon took place in the royal stores, by exaggerated reports of its magnitude, caused a further depression in the prices; and this

created such an alarm in Prussia, that a decree was issued from Berlin, prohibiting the importation of Danish corn into the provinces of Prussia.

It was this conjunction of circumstances which depressed the prices of wheat in the year 1825, till it was only 12s. 10d. per quarter. The price of rye did not experience the same rate of depreciation, from its finding a constant internal demand. It however fell to 11s. 2d. per quarter; a great decline, though but a small one, when compared with that of wheat.

This measure, which was certainly adopted with the most kindly feeling on the part of the monarch towards the distresses of his people, was confined to Denmark Proper, and not extended to the duchies. The accumulation was less than report had rumored, and with no export trade beyond the average rate of the preceding seven years, and no deficient harvest, the whole stock was quietly disposed of; so that in October last, when I was in Denmark, there only remained 4700 quarters of wheat, 7500 quarters of rye, and 4800 quarters of barley, with no oats, in all the stores at Copenhagen, Corsoer, and elsewhere in the islands and in Jutland.

The surplus wheat of Denmark Proper is inconsiderable, and that portion of it fit for the English market very small indeed. It appears by the official accounts for the last seven years, up to 1827, that the whole quantity exported has been 200,400 quarters, or 28,625 quarters annually; and this quantity has reduced the stock to 4700 quarters, not equal to a week of its very limited consumption. The export of rye, barley, and oats, is much greater, having been, in the same seven years, as follows:—rye 987,858 quarters; barley 1,319,661 quarters; oats 356,324 quarters. Or, on the annual average:—rye 141,122 quarters; barley 188,523 quarters; oats 50,903 quarters.

From the low quality of the wheat in Denmark, from the larger quantity of rye and barley, the latter of a good kind, and from the small produce of Norway, the corn trade of Denmark naturally finds a vent in the ancient channel in which for ages its course had flowed. The least demand in Norway is 100,000 quarters of bread corn, chiefly rye, besides much malt and barley for distillation. In some years the corn of Denmark is sent to Spain, Portugal, and Madeira; at other times to Holland; but all the markets are of far inferior consideration to that of Norway.

The chief portion of corn which appears by the accounts of our Custom-house to have been imported from the Danish dominions, which in these accounts are classed together, must have been from Holstein and Sleswick. Barley may however be an exception, as a larger proportion of that grain is grown in the islands than in the duchies; and it is in general of a better quality, when the weather for harvesting it has been favorable.

The increase of population in Denmark, like that of some of the other northern kingdoms, seems to have proceeded with a rapidity unknown hitherto in the old settled countries of Europe. By the ac-

counts of 1816, compared with those of 1825, this increase will be seen. The authority for the returns of the province of Zealand are such as lead to a reliance on their authenticity; and as those of the other provinces bear, in the two periods, nearly the same proportion to it, and to each other, I see no reason for doubting their accuracy, though I am not fully apprised of the exact mode in which the returns were made out. They can scarcely, however collected, be other than an approximation to the real state of the augmentation which has taken place in the period before mentioned.

POPULATION OF DENMARK PROPER.

Provinces.	1816.	1825.
Zealand	338,000	445,998
Fünen	127,100	165,200
Laaland with Falster	56,500	70,000
Jutland	410,000	462,000
	931,600	1,143,198

Supposing the same rate of increase to have proceeded in the two years from 1826 to 1827, and there can be no reason to expect the contrary, the present population must have amounted to 1,200,000 at the end of 1827, and shows that, with the same progress, the inhabitants would double themselves in about 33 years.

Being aware that a great increase in population had taken place, though my time did not then allow of any minute attention to the details of that increase, or to the evidence on which it rested, I watched carefully in every part of Zealand, of Fünen, and the small part of Jutland which I travelled through, between Snogshol and Hadersleben, to remark the culture of potatoes, which I expected to find very extensive. I was surprised to see very few in the ground; and, as far as mere recollection would warrant it, I should state, that in no part of the north of Europe through which I have travelled, not even in Poland, did the extent of potatoe cultivation appear to be so narrow as in the western parts of Zealand, and in the whole of Fünen. I was the more struck with this from observing the great number of very small farms through the whole country, with bare scarcely capable of containing more hay and corn than would require the labor of a small family to harvest, and where the chief production was either oats or buck wheat, with small patches of rye. The occupiers of such farms seemed in their habitations to have few of the accommodations of even the poorest German peasantry, and to possess only buck wheat and oats for their common sustenance.

Near the cities of Copenhagen, Roskilde, Slagelse, and Odense, potatoes seem to be cultivated to about the same extent as near the large towns of Germany; and I was informed that some near the capital were productive of that root, as well as of other culinary vegetables. My remark of the paucity of potatoes applies only to the open country, at a distance from towns, where the

population is as dense as in other agricultural districts, and where the aid of that root would appear to be of the greatest importance.

It appears by the Custom-house account, for the only years in which I could collect the details, that in 1825 the whole exports of agricultural produce from every part of this kingdom amounted to 782,076*l.* 5*s.* 4*d.*; of which grain of different descriptions made 478,423*l.* 2*s.* 4*d.*, and the butter and cheese 275,653*l.* 13*s.*

By the accompanying account, translated also from the Danish, it appears, that, in the first six months of the same year, the exports from Sleswick and Holstein were to that of Denmark Proper in the following proportions, viz. wheat as 5 to 3, flour as 5 to 1, oats as 3 to 1, buck wheat as 24 to 1, butter as 5 to 1, and cheese as 9 to 1. On the other hand, the proportions of other grain were greatest from Denmark Proper in the following ratio, viz. barley as 5 to 2, rye as 4 to 1, pease as 4 to 1, and beans as 5 to 3.

This contrast between the productions of the separate parts of this kingdom serves to show that, as far as concerns the trade in corn with Great Britain, the division of Denmark Proper can have very little influence; for which purpose alone it is here exhibited.

The continental dominions of Denmark, commonly distinguished as the duchies, comprehending, besides the ancient territories, Lauenburg, which was separated from Hanover by the treaties of Vienna, are a much larger part of the kingdom than the islands, and, in an agricultural view, by far the most important of the possessions of that crown. Jutland, the northern division, and the largest of the continental dominions, is under the same system of regulations as the island. It is little interesting in any point of view, and especially as far as concerns its produce, which hardly suffices for its own consumption.

Sleswick and Holstein may be taken in one view, their physical circumstances being nearly alike, as well as the character of the inhabitants, who are all of the original Saxon race.

No part of the country is mountainous. In the centre is a tract of poor sandy soil, thinly inhabited, badly cultivated, growing little corn, except buck wheat and oats, and yielding barely sufficient of those for its own consumption.

The western side of the poor land descends gradually to the sea, and there terminates in a stripe of rich marsh land, varying in breadth, which is defended by strong embankments from the waves. This is an excellent soil, equal to and not unlike our fen land in Lincolnshire and Cambridgeshire. On this portion of the country, oxen are fattened, by the natural grass, to a great size, and afford the excellent meat so well known, when slightly salted and smoked, under the name of Hambro' beef.

The chief corn cultivated is oats, of which the crops are very heavy. Rape is also very beneficially cultivated. The breadth of wheat and of rye is inconsiderable. Much of the land might be appropriated to

wheat, but it would require a permanent high price for that species of grain, such as has not been known for many years, to induce the proprietors to break up their old pastures, which have been nourished for a century, and convert them into arable land. Any sudden rise of prices would not be likely to extend the cultivation of wheat on these best soils. The old turf must be reduced to a state of rottenness, or it would choke a crop of wheat. After breaking up it may be sown with oats, and then a year's clean fallow must intervene before the land would be fitted to receive the seed. A year must then pass before the harvest can be secured, and the corn prepared to be sent to market. Thus three years are to be passed, and the expense of a fallow incurred, and with no certainty, and hardly a probability, that the high price of wheat will continue to maintain itself till the expiration of the three years.

In fact, the fattening of cattle, where it can be performed on the spontaneous produce of the soil, is attended with so little outlay, and commonly with so certain a gain, that no occupier of common judgment will be easily seduced from it into the hazardous pursuits of fallowing, ploughing, and sowing, if a clear gain, however small, can be secured by grazing. In the district under review, the most beneficial course of husbandry is found to be to purchase cattle from Jutland, and other less luxuriant soils, when about two years old; to keep them two years on the second quality of pasture till they have attained their full growth; and then, when four years old, to fatten them on the richest old pastures.

On the best marsh land, the dairy is found less profitable than grazing; but on the secondary quality of the soil that pursuit is very extensively followed.

The eastern division of the two provinces, bounded by the Baltic, is generally well adapted for that kind of convertible husbandry which destines the land to produce corn, butter, and cheese. The soil partakes every where of a loamy quality, but so mixed in different parts with calcareous, sandy, or clayey earths, as to create a great variety, and to be appropriate for either corn or green crops, or temporary pasture. The degree of comparative fertility does not extend far inland. In some cases, the heaths approach almost to the shores of the Baltic, especially in Sleswick; in other parts, and much more in Holstein, the track of sandy heath is narrow. One considerable district, which I crossed in several directions, consisted almost wholly of fair average corn land. Its name and history create an interest, being the province from whence Hengist and Horsa, according to the tradition of the country, sailed for Kent, and retaining still the name of Engelland, which it probably, 1300 years ago, conferred on our island. To the south of that division, from Eckernförde, by Kiel, to the territory of the independent state of Lubeck, the fertile land forms a more extensive portion of the whole of the district. Some of it is of excellent quality, well adapted for the growth of corn and for the dairy, and it yields a surplus of both

productions, which, if the taxes were less, and the means of intercourse in more tolerable condition, would raise it to a high state of prosperity. The district is generally enclosed with high hedges; it is well wooded, and interspersed with beautiful lakes. The arms of the sea, extending into the land, in various forms, from there being no tide in the Baltic, give such branches, called *fiorde*, the appearance of lakes rather than estuaries. Although in no part approaching to mountainous, the undulations of the land are sufficient to relieve the monotonous appearance which lakes give to a very flat country; and, in many instances, the hills, covered with woods, rise immediately from the shores of the lakes and the *fiorde*s. It, on the whole, bears more resemblance to some of the most beautiful parts of England than any district of the Continent which I have surveyed.

This province contains estates of various extent, from 5000 to 6000 acres, down to the small allotments which surround the cottages of those who cultivate a little land, just sufficient to yield food enough for the family who labor on it. Although the feudal system, as far as regards personal liberty, is totally abolished, yet the remains of it are in existence to at least an extent equal to what is to be observed among many of our copyholders. Scarcely any rents are paid for by labor, either of man or of cattle; but, in many instances, the payment of it in specific objects of produce still remains.

The larger estates, that are in the occupation of the proprietors, are generally well cultivated; many of those let to tenants are so likewise; and especially where the proprietor operates on a portion sufficient to give him a deep interest in its success, and lets the other portions to skilful and diligent farmers, with sufficient disposable capital. Some of the smaller farms, from 200 to 400 acres, are most accurately and beneficially worked by the proprietors, or, when that case occurs, by the leasees.

One farm of this description which I visited at Schwensby, in Engelland, was well managed, and appeared to be done with as much attention as any farm I have visited on the Continent. The proprietor, Mr. Jverson, with whom I enjoyed much conversation, remembered the topics, and, after I had left him, spontaneously and unexpectedly favored me with a written explanation, which forms the valuable Appendix, No. 20. The details of management are conveyed in so clear and so satisfactory a manner, as to leave no doubt of their accuracy on my mind, who have known the writer; and, I should think, bear such internal marks of exactness as must obtain credit from those who do not know him.

Count Rantzau and Sir Christopher Echard, who I had the pleasure to visit at their houses, and Count Von Holstein, who I had not the satisfaction to meet, have had the kindness to furnish me with clear answers to some written questions which I left with them. These, with other notices from those gentlemen, form a valuable view of the district where they reside, which is within 20 or 30 miles of Kiel. They form the Appendix, No. 21.

On the north-eastern part of Holstein, Mr. Biehm, a proprietor, but the whole of whose estate is farmed by a kind of hereditary tenants, has very obligingly communicated, by a written memorandum which he gave me, and an explanatory letter which he afterwards wrote, a statement of the particulars of his property. This forms the Appendix, No. 22.

Although I visited and conversed with other proprietors and occupiers of estates, scarcely any facts of a material nature presented themselves, that differed from the descriptions of agriculture given in the communications of the several gentlemen who I have already named.

Mr. Jverson gives the cost of production of corn to be as follows:—Wheat, 25s. 7d. per quarter; rye, 18s. 3d.; barley, 17s.; oats, 9s. 9d.

Sir O. Edward calculates the cost of wheat to be somewhat more than 26s. per quarter. These are the prices it cost on the farm, without leaving any profit. The expense of conveying to a market, where the state of the roads requires four horses to draw only seven quarters of wheat, and where the distance from the market is such as to occupy four, five, or even six days' labor of four horses and two men, bears a great proportion to the sum for which the whole load can be sold. To this must be added, that when arrived at the place of sale, if not sold, it cannot be brought home again, but must either be disposed of in the most languid state of the market, or warehoused at an expense which still more reduces the net proceeds. This uncertainty of the price which the markets will produce is felt by all continental farmers; and is unknown to ours in England. The latter can take a sample in his pocket, and if a fair price is offered, may sell, or, in the contrary case, defer selling. From his vicinity to the market, he can effect his own sales, and even before he goes there, nearly anticipate the state of it. The latter must either sell or warehouse his corn, and must employ a factor, or leave the disposal to a waggoner, often very incompetent to the task. It is not wonderful that, under such discouraging circumstances, the growth of corn should become an object of minor importance to that of producing other kinds of substances. Butter, cheese, wool, flax, meat, and oil seeds, will naturally excite more attention, because, in the long run, they will be found more advantageous.

The wheat of Holstein is not generally of a very good quality; and, probably, when the price in England is 60s. per quarter, would not sell for more than 54s. or 55s.; but of late, though including the expense of conveying to the market, it must have cost the grower near 30s., instead of selling it for a profit on that sum, which ought to have been at least 5s., the farmer has been compelled to take from 22s. to 24s., and sometimes even much less. Supposing the farmer to sell without profit, that is at 30s., the expenses of shipping; the profit or commission of the merchant at Hamburg, the freight, postage, insurance, risk of damage, landing

charges, of cartage, commissions, and market-dues, would amount to 16s. per quarter. When sold in the London market, with an average there of 60s., it would not obtain more than 55s.

The wages of labor seem, as in other countries, to be regulated by the comparative price of articles of the first necessity. Count Rantzau states the rate of a laboring man's daily wages to be, in the winter, till the season of spring, 7d. during that time, and till hay-making, from 7 15-16d. to 8 3/4d.; in the hay and corn harvest, 10 1/4d.; during the autumn sowing, 8 3/4d.; and for the remainder of the year, 7 15-16d. They have no food; but those who live on the estate are provided with a cottage, for which they pay a trifling rent, and sometimes they are furnished with a quantity of fuel, probably at a cheap rate. Mr. Jverson gives nearly the same rate, viz. 10 1/4d. in harvest, 8 3/4d. in summer, and 7d. in winter. Like every prudent and economical farmer, he boards and lodges his regular men, and pays to the head man 6l. 2s., and to the others 4l. 10s. each, yearly wages.

The wages on Mr. Blohm's property are higher; but they are likely to be influenced by the vicinity of the city of Lubeck, near to which the estate is situated. As far as I can judge, the state of the laboring agricultural inhabitants, making allowance for the inferior descriptions of food, clothing and dwellings with which they are supplied, is somewhat that of greater indigence than is experienced by the same kind of laborers in this country. I rather think, there is a greater variety in the condition of our laborers, than in that of those in poorer countries; that with us a greater proportion of the whole number, by industry and economy, raise themselves or their offspring from the low to a higher condition, than is to be observed in other countries. The quantity of labor performed by workmen in the various operations of husbandry, will be found, on comparison with most parts of England to be inferior; but it appeared to me, that the imperfection in the manner of performing each operation was more below our than the quantity of work. The meadows seemed to be worse mown; the corn less firmly bound in sheaves, and less cleanly thrashed out, and the land to be worse ploughed and harrowed.

I must except from these remarks the estate of Mr. Jverson, of Count Rantzau, of Baron Voght, and some others, and apply it only generally, as they presented themselves, to my hasty or transient views.

In noticing the value of the land, I confine myself to those districts of Holstein and Sleswick which are the most capable of producing a surplus of corn, omitting the sandy lands in the centre of the provinces, and the rich grazing land on the borders of the German Ocean. The estimate of Mr. Jverson makes the value of the arable part of his land alone, when neither the buildings nor the woods are included, to be worth only 950l., which, on 234 acres, is little more than 4l. per acre, yet his is good land, and in excellent cultivation. He estimates his 13 acres of wood to be worth 350l.; and the buildings, which cost much more, at 1220l. The value seems to have vastly

declined within the last 20 years. If I may be allowed to judge the depreciation on the mere arable land, the woods, buildings, and stock, being of the same value at present as at that time, must have been more than one-half.

I apprehend the rent of land in the country of which I am writing is, as in other countries, higher than its real value, when estimated in money, or when compared with the money price of other commodities, or with its profitable proceeds. The independence which arises to farmers, as long as they can pay the rent to the proprietor, has its peculiar charms to those accustomed only to a country life; the number of such who have sufficient capital to cultivate but not to purchase land is greater in Holstein than in most other parts of the continent; and hence, when an eligible farm is to be let, the competitors raise the price above its intrinsic value, in spite of the warnings which numerous failures have given. A young man, with a capital from 500*l.* to 1500*l.*, can establish himself on a large space of ground with it, as the cattle, stock, and implements are the property of the owner. He needs only to have sufficient for the advance of a year's rent beforehand, which is required by the proprietor for his own security, and sufficient to pay the trifling current wages. If he lets the cows to a dairyman, he obtains from him some part of the rent in advance; or if he conducts the dairy himself, the weekly sale of butter will supply him with a small amount of ready cash. A farm in England of 1500 acres would require at least a capital in the tenant's hands of from 5000*l.* to 6000*l.*; whilst in Holstein or Sleswick one-quarter of that amount would be amply sufficient.

The rent of whole farms, including the buildings, woods, turbarry, fishing, when there is any, and the other accompaniments, may be averaged at about 13*s.* or 14*s.* per acre. The proprietor generally pays the taxes, which amount to about 4*s.* per acre, but varies in an extraordinary degree from the want of a modern survey and valuation. Thus, Mr. Jverson states, that "the difference existing in the taxation of lands of equal quality is perhaps more than 100 per cent." He adds, "there are farms burdened with an equal amount of taxes; the one of which may be worth 85*l.*, and the other 850*l.* sterling." After deducting the taxes, the insurance against fire, and the repairs of the extensive buildings, the expenses of the church, the schools, and of the justiciary, the net proceeds to the proprietor are often very trifling when compared with the extent of the land.

The estate of Mr. Blohm is an exception to these observations. The soil is very good, the tenants or copyholders are in respectable circumstances, and have a property in the land; and it is situate in that part of Holstein which comes in direct contact with the city of Lubeck, which furnishes a market, both by its internal consumption, and its access to the markets of distant countries.

The labor on the highways is all performed by the occupiers and their teams, or by men hired by them for that purpose.

The paper currency of Denmark having sustained a great depres-

sion, it has been deemed necessary to establish it on a firmer footing by the institution of the bank of Copenhagen. To form a solid capital for this bank, a tax has been levied of 6 per cent on all the property of the dominions in houses and lands. When the proprietors could not advance the requisite sum, it has remained as a mortgage on the property, chargeable with interest; but as the interest charged was higher than the current rate at which money could be borrowed, almost the whole sum has been paid up, and the bank has gained a degree of credit and stability which it can only lose by having its funds diverted from the peculiar objects of banking to the pecuniary assistance of the wants of the government.

The tax, however, is a general subject of complaint among the landed proprietors in the duchies of Sleswick and Holstein, who think they derive no advantage from the bank, and whose notes do not circulate in their districts.

I have too little acquaintance with the detail of this kind of impost, or of any impost laid for such a purpose, to give any opinion, if I were called on, which I am not, as to its wisdom and justice, or the contrary. I merely notice it as one of the subjects of complaint among the landed proprietors; though, I must add, some of the most enlightened of the number gave it their fullest and most unequivocal approbation.

The estates which came under my nearest observation in Holstein were certainly cultivated with a care far beyond the common rate of the husbandry of the province; and their productions are, in conformity to it, much more abundant than a fair average of the whole agriculture would warrant me in assuming. Most of those farms may be stated to yield in wheat nearly tenfold the quantity of seed. It may be doubted if the whole land, taken together, gives an increase in more than a six or sevenfold degree. The small parcels in the hands of the peasants, who were formerly *adscripti glebæ*, and are now a kind of copyholders or hereditary lessees, are very ill managed, and commonly slightly productive. Many even of the larger estates, from the want of original capital, or from the great losses their owners have suffered, are imperfectly managed, and render inferior returns for the labor bestowed on them.

The surplus corn of Holstein and Sleswick, taken together, for the last seven years, viz. from 1820 to 1826 inclusive, appears to have been,—530,531 quarters wheat; 381,569 rye; 524,658 barley; 916,508 oats; or in each the average period of seven years has been,—wheat, 78,602 quarters annually; rye, 54,707; barley, 74,971; oats, 130,729.

It thus appears, that the export of wheat and oats from the two duchies of Sleswick and Holstein, exceeds that of all the rest of the Danish dominions, whilst it falls very far short of the quantity of rye and barley.

The chief export of the two duchies consists of the products of the dairy, the value of which, in butter and cheese, exceeds that of corn, to

which is to be added that of the salted pork and hams. Thus, in the first six months of the year 1825, when the whole exports of the dairy from the kingdom were 4,671,260lbs. of butter, and 596,100lbs. of cheese, those of Sleswick were 933,780lbs. of the former, and 192,850lbs. of the latter; and those of Holstein, 2,771,460lbs. of butter, and 309,750lbs. of cheese. Though butter and cheese have declined in price, as well as salted beef and pork, it has been only at the rate of 30 per cent, when the prices of the three years 1817, 1818, 1819, are compared with those of 1825, 1826, and 1827. In the same periods the prices of wheat and other corn have fallen more than 50 per cent, as appears by comparing together those of the same two series of three years each.

The value of the butter seems to vary in each year, according to the season in which it is made. It is divided into four classes, viz. winter butter, or that made whilst the cows are stall fed; fresh milk butter, that made after the cows have calved, but before they are turned out to grass; summer butter, made in June and July; and stubble butter, that made from the 1st August to the period when the cows are taken into the stalls for the winter.

The produce of each of the four periods is estimated to be—

Winter butter	2 parts in 20
Fresh milk butter	4 ——— 20
Summer butter	7 ——— 20
Stubble butter	7 ——— 20

On each farm that I visited, where the dairy was an object of importance, I inquired and noted the average yearly quantity of butter made from each cow, because I considered it one of the tests by which the state of the soil and cultivation might be compared. I found the variation to be from 50lbs. to that of Count Rantzau, which he states to be 131lbs. Danish, or 140lbs. English, and which was the greatest I met with.

I thought the management of the dairies in Holstein remarkably good, certainly far better than in Mecklenburg or in Denmark. The operations seemed to be carried on with all the cleanliness, and, if possible, with greater economy than even in Holland, from whence the practices were originally derived.

The chief port for shipping corn is Kiel; but from the situation of Hamburgh, though out of the Danish territory, a larger portion is consigned to that market than to Kiel. This latter city enjoys great advantages, from the excellence of its harbour, and from the facility with which vessels can be loaded directly from the corn magazines. The chief corn exported from Kiel to Great Britain is sent to Leith, Gainsborough, and Hull. Much rape-seed is grown in the country; the greater part of which, though some is crushed for oil at home, is consigned to Holland.

When I went through the corn warehouses (1st October last), I ascertained that there was no stock of rye, barley, or oats in them, and only about 5000 quarters of wheat, some of an indifferent quality

but all engaged for exportation to Hamburg and Holland. By a letter from Mr. Lea, the vice-consul, communicated to me by Mr. Canning, dated the 2nd January, I find the following statement:—
 “The stocks of grain noticed in my letter to you of the 26th October, are worked off for shipments to different countries; but, by deliveries from the farmers during the last two months, are nearly replaced. I will observe, we have no old stocks of grain left in this country, or in any part of Denmark; and that a portion of last harvest, particularly oats, has been worked for export to England, and for home consumption.”

The city of Hamburg is an important object, as far as regards the commerce in grain, both because it is a great entrepot, where the corn of the north of Europe is deposited, to wait for the best markets in the south, and because it is the natural opening by which that grown on both banks of the protracted river Elbe finds its vent. Although its own territory is small, and quite insufficient to supply the requisite quantity of grain for its own consumption, yet it is the channel by which a part of the corn of Mecklenburg, Anhalt, Dessau, Magdeburg, Saxony, and even, in dear times, of Bohemia, is conveyed to the distant parts of the world.

In this city, I was so fortunate as to have the useful assistance of Mr. Consul-general Canning, who, with zeal and industry, to which this report is much indebted, afforded me, voluntary, every aid I could wish, and much more than I should have ventured to have requested. The several papers in the Appendix, with his signature, give but insufficient proofs of the many facts for which I am beholden to him.

As a depôt for corn to be shipped for other markets, it became desirable to ascertain the expense of receiving, of storing, of re-shipping, and of the waste in quantity, which corn suffers by being placed in warehouses till foreign markets open for it. It will be seen by the Appendix, No. 23 and 24, that the expense of taking corn into the store is 9d. per quarter; of taking out of store is 1s. 8d. per quarter; and that the rent is 2d. per quarter per month. The loss in measure, varying according to its dry or damp condition when received into the warehouses, is stated to be in the first year from three to four per cent, and in each of the succeeding years from one and a half to two per cent. Besides these expenses, that of insurance against fire, with the stamp duty, amounts to three-quarters per cent per year.

The whole export of wheat from Hamburg during the last ten years, from the 1st January, 1818, to 1st October, 1827, has been as follows, viz:—

When I first started on my journey to Hamburg, I was informed that there was no stock of wheat in the city, and that some of the wheat had been sent to other parts of the country.

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	Exported quarters.
To Great Britain - - - - -	403,535
France - - - - -	6501
Spain - - - - -	79,750
Bremen - - - - -	385
Holland - - - - -	9372
America - - - - -	1749
By the Elbe and by land - - -	174,482
	675,774

Of this quantity the supply was—

By sea - - - - -	51,766
By craft ascending the Elbe - -	116,754
By land from Holstein - - - -	73,062
	241,582
	434,192

leaving as the surplus of the wheat on both banks of the Elbe above Hamburg, after deducting the consumption of the city in the ten years, 434,192 quarters, or an annual efflux of 43,419 quarters. It is gratifying to observe, that the exports of corn in British ships from the port of Hamburg, in the year 1826, exceeded the whole quantity shipped direct for this country; and that therefore British vessels were not only used in the direct trade to this kingdom, but in conveying corn from Hamburg to foreign countries. This will appear by comparing the quantity of corn shipped for England, as stated in the Appendix, No. 25, with that which is shown by Appendix, No. 27, to have been loaded in British vessels.

I am disposed to believe that a regular trade in corn, diffused equally over all times, with a due protection to the home grower, would be more beneficial to the shipping interest than the present state of affairs. As the law now stands, very great dispatch is required in loading corn, so as to reach our ports during the short periods which they are kept open. Vessels of the smaller sizes, and of inferior adaptation for the secure conveyance of grain, are commonly to be found in the shipping ports in great numbers, and the pressing nature of the trade employs them. If the ports were open at all times, with whatever rate of duty, the shipper, not being pressed in regard to time, would make use of larger vessels, and those of a better description, than they now employ; and in that kind of competition our merchant ships have nothing to fear from their foreign rivals.

From Hamburg, over the Elbe, I passed through the whole length of the kingdom of Hanover. In the northern part, from Harburg to Zell, and indeed nearly to the city of Hanover, the soil is generally a poor sandy heath, with few cattle, except sheep of an inferior race, and some few cows. To the south of the capital the soil improves, and is for the most part a moderate description of lightish arable

land. In proceeding farther south, beyond Einbeck, the soil becomes still more productive; and around Göttingen, and from thence to the Hessian frontier, is generally, especially in the valleys, a very fine, and when cultivated, a productive district. I had visited this kingdom eight years before; and recollection of its then state enabled me to remark a considerable improvement in every part, as far as regards the cultivation, the dwellings, the cattle, and the roads. All exhibit marks of a progress which can only arise from a mild, stimulative, and protective administration. Some of the communal lands have been freed from their feudal restrictions, and brought into cultivation; and even on the sandy heaths many proofs of improvements are obvious, in the new houses and farming establishments, in the great breadth of potatoes and turnips, and in extensive plantations of pines and firs.

Here, as elsewhere, the progress of cultivation was obvious on even the slight attention I could give to it during a short stay; but the reports of the increased population naturally excited a desire to compare the increase of the consumers with that of the increase of production. His Royal Highness the Duke of Cambridge and the ministers of the kingdom, evinced every disposition to satisfy any inquiries I might be disposed to make; and I was assured that ready attention would be paid to any desires I might express for accounts; and that answers should be forwarded, as far as they could be framed with exactness, to any questions I might leave in writing. I was anxious to ascertain the number of additional acres of land which had been brought under the plough in the ten years, from 1816 to 1826, and thus, to see if culture had kept pace with, had preceded, or had followed the rate of increase in the number of consumers.

The Report from the Board of Taxation, in the Appendix, No. 35, though evidence of the liberal intention of the government, does not show, even in the provinces whose cultivated land is indicated, any means of forming a comparison between the two periods of 1816 and 1826. The population census shows an increase in the ten years under consideration, at the rate of 12 per cent; at which pace, without acceleration, the inhabitants would be doubled in 55 years.

Although it was well known that the province of East Friesland, annually, and the duchy of Bremen, frequently, produced a surplus quantity of oats, yet I had been induced to form an opinion, on viewing the country and considering its population, that Hanover yielded a very small, if any, surplus of bread corn. It became desirable to ascertain, if possible, the quantity of the different kinds of grain that had, in each of the last ten years, been imported and exported. The extensive frontier which it presents on the land side to several other states, and the regulations of those internal custom-houses which are placed at the boundaries, have made it impossible to frame accurate accounts for the series desired. The Board of Customs, in their Report to the Cabinet Council, have pointed out the obstacles which opposed themselves to such an account; but have presented one

which, as far as it goes, is at least satisfactory evidence to confirm the opinion I had been led to adopt. It appears by it, that in the year from 1st October, 1825, to the 1st October, 1826, the imports of bread corn exceeded the exports in a small degree; that 8179 quarters of wheat and 10,153 quarters of rye more was imported than exported. The harvest of 1825 was deficient, as far as regarded oats and barley, but was a fair average as regarded wheat and rye. Though it would have been more satisfactory to have obtained the accounts for a series of years, yet this return for a single year, distinguished by no peculiar deficiency or abundance, is presumptive proof that there is no surplus of bread corn produced in the kingdom of Hanover. The mining region of the Hartz scarcely grows any corn; and when I was at Osterode, I found in the magazine some thousand quarters of rye, brought from other parts, laid up as a winter provision for the inhabitants of that severe district. The advance in the price of rye, the common bread corn, when compared with the advance in wheat, which is only used as a delicacy, gives additional reason to apprehend that the increase of consumers of the former grain presses on the quantity of bread corn actually grown. Thus, the average price of wheat from 1816 to 1826 was 33 per cent above rye; and in 1826 and 1827 was not 10 per cent above it.

Few subjects admit less of correct statistical exhibition, than the actual quantity grown of an article so fluctuating in its produce as corn. It is, however, desirable to attain as near to correctness as possible, in order to guard against such errors in legislation as may have an injurious and permanent effect on the prosperity of the whole community. It is desirable also, as a means of bringing to the touchstone of facts the various opinions which have been promulgated of the influence of extraneous matters on the high or low prices of corn in different years. Thus, the importation of foreign corn, the gradual extension of potato culture, the variation in the relative value of the currency of the country, with other causes, have been represented to bear with great power on the prices of corn. If the actual quantity of corn could be yearly ascertained, it would become more easy to calculate the influence of these extraneous causes, and to measure them with what is the greater cause—the annual fluctuation in produce.

It is with this intention that I venture to submit to your lordships some estimates, not indeed of the actual quantity of corn produced each year of the last twelve from our own harvests, but of the relative productiveness of each year of the series to the others. The scale, as framed, may be adapted to any quantity which may be supposed to be the average consumption of the country for each year; the quantity consumed being a less doubtful, though ever a doubtful one, than the quantity produced. I have calculated the effect of the scale on the supposition of an annual consumption, exclusive of what is used for seed, of twelve million quarters of wheat, though I have

reason to believe what is used as food somewhat exceeds that quantity. As the scale is framed chiefly for purposes of comparison, it was desirable to adopt for the average a number easily divided into fractional parts.

In collecting the facts on which the scale is framed, a variety of methods have been pursued, the results of each of which have been examined, and then compared with each other, to form the final result to which they have all led.

Your lordships are aware that there are several individuals in this country possessing large capital, which have at particular seasons been employed in the trade in grain, who are in the practice of estimating the produce of each harvest, and the quantity remaining in stock in the whole kingdom. At the beginning of the harvest, such persons, either by their experienced agents or themselves, inspect the state of the crops through the several corn districts, compare and register their remarks, and avail themselves of the combined facts, when brought into a focus, to regulate their subsequent sales and purchases of grain.

As such individuals are neither influenced by political, party, nor theoretical views, but directed solely by their own pecuniary interests, their judgments are likely to be founded on a simple view of mere facts, to be quickened by the desire of gain, and to be improved by the annual practical surveys they take. I have been fortunate enough to obtain from several of these parties the conclusions to which in each year they have arrived; and feel myself indebted to them for the clearness and frankness with which they have communicated, under a caution against bringing their names before the public, the estimates on which they have relied, and intend hereafter to rely, as the means of their individual benefit.

By an extensive correspondence with almost every part of this island, I have been enabled to collect a great number of accounts of the actual amount of the quantity of wheat grown in each of the twelve years in question, by individuals who cultivate the soil, and keep regular books of produce and sales. If I relied on such accounts, as to the actual produce of wheat in the whole kingdom in each year, I should most enormously miscalculate our annual growth; they would show an average number of bushels per acre, very far exceeding what a true statement would exhibit: the fact is, that such accounts as I have been favored with are returns from the best informed men on the best cultivated farms in their several districts.

Although a calculation of the absolute quantity produced resting on such accounts would mislead, yet, for the purpose of framing a scale of the proportional productiveness, they may be trusted to with some degree of confidence.

I am disposed to yield the greater confidence to them; from seeing that, differing greatly as the several farms do from each other in their average produce in the series of years, they nearly coincide, with very slight variations, as to their relative productiveness, in each individual year. On farms, for instance, which have, on the average of the

twelve years, afforded but twenty-one bushels of wheat per acre, when compared with others whose average during the same years has been thirty-two bushels the acre, I observe, that each year has borne nearly the same proportion to the other years in every instance. Thus, on every one of the farms, the year 1820 exceeded by far the most the average of the whole years of the cycle, and the year 1816 fell the most below the same average. The years of intermediate productiveness vary little from each other in the several accounts in my collection.

I have collected all those accounts, and formed from them an average; and compared that with the average derived from combining together the estimates of the several annual surveys of the speculative merchants. The result of this comparison has led me to depend with some confidence on the scale which I have framed from the junction, which I now submit to your lordships' consideration.

In order to discover any error in the formation of the scale, I have compared it with the remarks collected by Mr. Tooke, in his valuable work on "High and Low Prices;" and with the accounts of the same years scattered, though vaguely, through the several periodical agricultural journals, which are published both in England and Scotland.

I beg here to make one remark, which has occurred to me, from examining and comparing the returns of the crops of wheat on so many farms, and in the counties of England most distant from each other. It is, that the influence of climate, or whatever else may influence productiveness, seems to be very equably distributed over the whole of England. Thus the same years which show the highest degree of productiveness in Northumberland and Durham, are found in Hants and Somerset to have yielded the largest crops, and the years which have been the least productive show the same comparative degree of deficiency in the same two distant districts.

A Scale of Productiveness as far as regards the crop of Wheat in each year, from 1816 to 1827, both inclusive; in which number 240 is used to represent the portion of Wheat here supposed to be consumed in each year for food in Great Britain.

Years.	Number indicating the proportion.					Supposed quantity of Wheat grown in each year, according to the rate.
1816	180	.	.	.	.	9,000,000 quarters.
1817	234	.	.	.	.	11,700,000 —
1818	240	.	.	.	.	12,000,000 —
1819	250	.	.	.	.	12,500,000 —
1820	320	.	.	.	.	16,000,000 —
1821	252	.	.	.	.	12,600,000 —
1822	270	.	.	.	.	13,500,000 —
1823	220	.	.	.	.	11,000,000 —
1824	230	.	.	.	.	11,500,000 —
1825	254	.	.	.	.	12,700,000 —
1826	260	.	.	.	.	13,000,000 —
1827	246	.	.	.	.	12,530,000 —

Although the preceding scale goes back no farther than to the harvest of 1816, it is to be borne in mind that the crop of the year 1813 was one of a most abundant character: the harvest of 1814 was a full average; and that of 1815 abundant, but a little inferior to that of 1813. When the calamitous harvest of 1816 occurred, the excess of the three preceding years had been preserved, and formed an accumulated store, which providentially prevented a dreadful scarcity, if not a famine, in the greater part of 1817.

According to the best estimate I can form, grounded on the opinion of persons interested in knowing, as accurately as possible, the state of the stock of wheat on hand at the commencement of each harvest, there was, when that of 1816 began to be reaped, about 6,150,000 quarters of wheat to spare of former years' growth. On the assumption of that quantity being in the country, for the accuracy of which I must depend on those most conversant with the subject at that time, the following calculation of supply and demand, from 1816 to the present time, is framed:—

Harvest of 1816.—Stock on hand of pre-	Quarters.
ceding years . . .	6,150,000
Importation : . . .	772,330
Produce of the harvest .	9,000,000
	15,922,330

Deduct for the consump-	
tion of 13,200,000	
persons—	Quarters.
For food	11,180,000
Used for seed	1,300,000
	12,480,000

Harvest of 1817.—Stock on hand of pre-	
ceding years . . .	3,442,330
Importation,	
Ireland . 103,107	
Do. foreign	
countries . 1,635,593	
	1,738,700
Produce of the harvest .	11,700,000
	13,438,700

Deduct for the consump-	
tion of 13,400,000	
persons	11,370,000
For seed	1,300,000
	12,670,000

Harvest of 1818.—Stock on hand of pre-	
ceding years . . .	4,211,030
Importation,	
Ireland . 151,854	

Importation foreign countries .	580,949	
		732,803
Produce of the harvest .	12,000,000	
		<u>12,732,830</u>
Deduct for the consumption of 13,600,000 persons	11,550,000	
For seed	1,300,000	
		<u>12,850,000</u>
Harvest of 1819.—Stock on hand of preceding years		4,093,833
Importation from Ireland .	403,049	
Produce of the harvest .	12,500,000	
		<u>12,903,049</u>
		<u>16,996,882</u>
Deduct for the consumption of 13,800,000 persons	11,730,000	
For seed	1,300,000	
		<u>13,030,000</u>
Harvest of 1820.—Stock on hand of preceding years		3,966,882
Importation from Ireland .	567,495	
Produce of the harvest .	16,000,000	
		<u>16,567,495</u>
		<u>20,534,377</u>
Deduct for the consumption of 14,000,000 persons	11,910,000	
For seed	1,300,000	
		<u>13,210,000</u>
Harvest of 1821.—Stock on hand of preceding years		7,324,377
Importation from Ireland .	462,963	
Produce of the harvest .	12,600,000	
		<u>13,062,963</u>
		<u>20,387,340</u>
Deduct for the consumption of 14,200,000 persons	12,090,000	
For seed	1,300,000	
		<u>13,390,068</u>

Harvest of 1822.—Stock on hand of pre-		
ceding years		6,997,340
Importation from Ireland	400,068	
Produce of the harvest	13,500,000	
		13,900,068

20,897,408

Deduct for the consump-		
tion of 14,400,000		
persons	12,270,000	
For seed	1,300,000	
		13,570,000

Harvest of 1823.—Stock on hand of pre-		
ceding years		7,327,408
Importation from Ireland	356,408	
Do. from the colonies .	10,652	
Produce of the harvest	11,000,000	
		11,000,000

18,694,468

Deduct for the consump-		
tion of 14,600,000		
persons	12,450,000	
For seed	1,300,000	
		13,750,000

Harvest of 1824.—Stock on hand of pre-		
ceding years		4,944,468
Importation from Ireland	396,409	
Do. from the colonies .	14,829	
Produce of the harvest	11,500,000	
		11,911,238

16,855,706

Deduct for the consump-		
tion of 14,800,000		
persons	12,630,000	
For seed	1,300,000	
		13,900,000

Harvest of 1825.—Stock on hand of pre-		
ceding years		2,955,706
Importation from Ireland	314,851	
Do. from the colonies .	123,427	
Admitted from foreign		
countries	372,918	
Produce of the harvest	12,700,000	
		13,511,196

Deduct for the consumption of 15,000,000 persons	12,810,000	
For seed	1,300,000	
		14,110,000
arvest of 1826.—Stock on hand of preceding years		2,356,890
Importation from Ireland	404,112	
Do. from the colonies	28,999	
Admitted from foreign countries	268,234	
Produce of the harvest	13,000,000	
		13,701,345
		16,058,235
Deduct for the consumption of 15,200,000 persons	12,990,000	
For seed	1,300,000	
		14,290,000
Harvest of 1827.—Stock on hand of preceding years		1,768,235
Importation from Ireland	396,018	
Do. from the colonies	49,667	
Admitted from foreign countries	511,344	
Produce of the harvest	12,500,000	
		13,457,029
		15,225,264
Deduct for the consumption of 15,400,000 persons	13,170,000	
For seed	1,300,000	
		14,470,000
Estimated stock at the harvest 1828		755,264

This view of the small quantity left in store is confirmed by the testimony of a very considerable number of persons to whom I have written in every part of the United Kingdom, including the inspectors of corn returns in the several market towns. The inquiry was, if there was as much wheat in their respective vicinities, at the harvest of 1827, in the hands of farmers and dealers as usual? The replies to this inquiry were at the following rate: One hundred and forty-two stated there was much less, and many of them very much less

than ever was known before; twelve stated that the quantity was much the same, and five of them asserted there was rather more than usual.

No one can be more aware than myself of the errors to which an implicit confidence in the preceding table would lead. I have not formed it to obtain that confidence in it as a whole, which it is impossible I can myself feel. It may, however, deserve a considerable degree of attention, as a clue to the development of some important views. In the estimated increase of our population, in the period of the last twelve years, there can be no mistatement, or at least none, except to a very insignificant extent. The relative productiveness of the several years, being framed from as great a variety of facts as could be collected, is not likely to be very far from an accurate view. The statements relating to absolute quantities are certainly only unauthoritative conjectures. There are no satisfactory notices in this country of the number of acres destined to grow bread corn, nor even of the number under arable cultivation. There are no means of forming any judgment of what the average acreable produce of wheat is, or what rate of increase of the seed is gained. I have seen returns of farms, where, in some seasons, the seed has yielded sixteen grains for one, and others, where they have not exceeded five and a half for one.

In the table, the increase of wheat is assumed to be at the rate of nine times the quantity of seed. It is a mere conjecture, and impossible to be either proved or disproved, without much more knowledge than we at present enjoy.

It is equally difficult to determine what is the annual consumption of wheat. It has been usual to estimate it at one quarter per year for each person, calculated on the number of quartern loaves allowed by the magistrates weekly to paupers in some local districts. In the table it is estimated lower, or at somewhat more than six bushels and a half for each person. It would be equally as difficult to defend either of these rates of consumption, as to fix determinately what the rate really is.

Although some facts are incapable of strict proof, yet those in the table that are ascertained, such as the number of consumers, and of those that are highly probable, such as the comparative productiveness of the different years, lead to considerations of an important nature.

The comparative productiveness of the year 1820 to the year 1816, was as sixteen to nine, or, according to the rate here assumed, a difference of 7,000,000 quarters of wheat. The greatest quantity of wheat ever imported in one year from all parts of the world, including Ireland, was 1,738,000 quarters. The whole import during the last twelve years under consideration amounted to 6,780,000, or, on an average of the years, to about 565,000 annually.

The fluctuation in the character of different years is seen in the produce of wheat to be about equal to the average annual quantity

that has been imported; the whole quantity in the twelve years is not equal to the difference in produce between two years out of the twelve. From these data may be inferred, how little the influence of importation from Ireland and foreign countries, on the price of wheat, can have been when compared with the influence exercised by the greater or less production of our own soil. The alteration made in the currency, by the removal of the Bank restriction, seems to have had an undue degree of influence attributed to it in affecting the prices of corn. The exchangeable difference of value between our paper currency and the metallic money, as almost demonstrably proved by Mr. Tooke, did not in the first twelve years of the restriction exceed 4 per cent, nor on the average of the five succeeding years more than 20 per cent, and the difference of produce in corn between two of the years of the series we have reviewed was 80 per cent. Whatever may have been the effect of the Bank restriction to raise prices on the whole period of seventeen years during which it was continued, it must have been very inconsiderable, when placed in contrast with the effect caused by the variations in the productiveness of seasons, during the twelve years since the restriction has been removed.

The increase of inhabitants to be subsisted, as shown in the table, is not a matter of estimate, but of simple numeration, in which no error of importance can be made. If this increase should continue at the same rate, which there seems no reason to doubt, and if the consumption of wheat keeps an equal pace with it, which there is every reason to expect, we must very speedily reach a point where the supply will fall short of the demand, without taking into consideration those years which must be expected to occur, in which our harvests may prove more or less deficient. The cultivation of potatoes is looked to as a useful remedy, to protract the consumption of scanty harvests of corn; but that kind of sustenance when adopted, not as a remedy against an occasional evil, but as the principal instrument for the subsistence of a country, seems to be calculated rather to increase the number of its consumers, than to increase the supply of a better kind of food.

In the countries of Europe, where the greatest proportions of those who have no property but the daily labor of their hands on which to subsist are to be found, we find also the most rapid increase in the number of the inhabitants. In Prussia, in Denmark, in Russia, and the other parts of the continent, which are obviously the poorest, as well as in Ireland, the increase of inhabitants, living chiefly on potatoes, has been so much greater than the increase of capital to afford them employment, that when an unfavorable season for their chief sustenance occurs, the extent of want and suffering is enlarged in a most alarming degree—in a degree felt with a most oppressive weight during the period between the uselessness of the old and ripening of the new crop.

The Hanoverian government keeps accounts, as well of the annual produce of the harvests, as of the kind of crops cultivated. It

appears, that in a number of bailiwicks of that kingdom, the returns from which I have been enabled to procure, the increase of inhabitants, in the years from 1817 to 1826, has been 12,006 individuals; that, in the same period, the increase in the number of acres cultivated with potatoes has been 945, or that the increase in consumers has been between 9 and 10 per cent, whilst that of the acres destined for potatoes has been between 5 and 6 per cent. No great stress can be laid on this statement, though it shows that the growth of the root in question has not been proceeding with that extraordinary pace which many have supposed. I think the potatoe-culture has been as much extended in Hanover as in any part of the continent I have visited. They are used very generally for making ardent spirit, as well as for food both for man and cattle.

In very poor countries, the culture of potatoes, though not perhaps a remedy for the evil under which they labor, and even possibly one among others of the cause of that evil, can in their present circumstances not be dispensed with, or in any degree be diminished.

It is not to such a state that we are called on to look in Great Britain; our laborers are not compelled to subsist on the lowest kind of food. Even the most indigent, those who are supported by the local poor-rates in their own dwellings, such as are placed in poor-houses, workhouses, hospitals, and other receptacles for indigence, are not, like those in similar circumstances in poorer countries, compelled to live exclusively on potatoes. All of them are fed with corn of some description, and in the south of the island almost wholly with wheat. Those, a little above absolute want of, or whose feelings forbid them to apply for, parochial aid, may sometimes suffer more than those who receive it; but this class comprises a very small proportion of the whole inhabitants of Great Britain, and it is among them that the greater use of potatoes has been chiefly extended.

In the absence of the knowledge of many facts relating to the extended culture of potatoes, in most countries it is difficult to conceive that, whilst, from 1816 to 1828, our population has been augmented by upwards of two millions of consumers, the additional food supplied by potatoes can have fed one quarter of that number. If the whole quantity of potatoes were an absolute increase, it might be deserving of more notice; but in proportion as the manure of a farm is applied to the crop of potatoes, it must be lessened in its application to the part appropriated to corn.

Whatever may be the effect of the extended culture of potatoes, the easy circumstances in which the greater portion of the inhabitants of Great Britain are placed must make the increase of their numbers to be at a higher rate than that of the class who are fed chiefly on potatoes; besides, the lowest classes are rising a step in the scale of subsistence, with a degree of gradual regularity, much more than those above them are descending. The middle classes are receiving

recruits from the lower in much greater numbers than the latter do from the former. This state of things is clearly proved by the vast number of neat houses of the smaller class arising in every part of England, in exchange for the crowded and filthy dwellings formerly inhabited by the artisans, which are as rapidly, in every county, disappearing. This view is also further strengthened by referring to the great increase in the consumption of all those articles which form the comforts of those a few steps above the indigent class. Thus, within the last twelve years, the increased use of soap, candles, leather, sugar, and other articles, is evidence to show that the augmentation of our inhabitants has been chiefly in that class of society who are not compelled to subsist on the lowest description of food.

It may further be added, that the increase in the amount of the capitals accumulated in the several savings' banks, in a few years, from two to fourteen millions sterling, affords other ground for taking a favorable view of the condition of those one or two steps removed above the condition of mere day-laborers, and who live on better food than potatoes.

The year which followed the banking crisis of 1825, may, and probably did impede the progress of national prosperity, and such a rapid increase in the consumption of wheat as would without it have been attained. The effect of that crisis is now nearly passed away; and as we hope to return to the pace of advance, at which that event impeded our course, we must look henceforth to a constantly increasing demand for wheat.

It will be presently shown, that if a great portion of our necessary supply should be wanted from foreign countries, there is no probability that it could be furnished without such an advance of price as would be enormously heavy. We must look to our own supply, if not quite exclusively, at least chiefly. It is on the assiduity and skill, and economy in cultivation, of our own agricultural fellow-subjects that we must depend; for all other dependence would fail us in the day of necessity, whenever that day shall arrive.

It can only be by due and real protection that the British farmer can be enabled to supply the wants of the community; and if, for want of such protection, he should fail considerably in his annual produce, the void cannot be filled up except at a cost very far beyond what such protection, expended on the domestic cultivators, would amount to.

In order to show how difficult it would be to draw from the continent of Europe a supply of corn to such an extent as would make up the deficiency created by another harvest like that of 1816, it becomes desirable to show what has been the actual surplus of wheat of those countries after feeding their own inhabitants.

The greatest exporting country is Prussia. As the wheat of her Rhenish provinces finds its only outlet through the ports of the Netherlands, and the whole is consumed there, it is not necessary that it should be taken any notice of in the review of general exports.

I believe none from Munster find its way to the Weser or to the Ems, though to the latter river there is a canal; but the navigation of it is so expensive as to be a bar to the conveyance of grain. Much wheat comes from Magdeburg, and the adjacent provinces near the Elbe. The quantity, whatever it may be, is shipped at Hamburg, and forms a part of the excess of export beyond import of that city. We have then only the provinces of Pomerania and of East and West Prussia to notice in this general view.

In the nine years, from 1819 to 1827, both inclusive, the whole export amounted to 1,971,577 quarters, at the average rate of 219,064 annually. This amount comprehends the whole of that which descends by the several rivers from Poland. As the Prussian wheat is not of the best quality, and forms about one-third of the whole quantity, that from Poland must be annually about 140 or 150,000 quarters; some of this is, however, inferior to the average wheat of this kingdom. There may perhaps be 100,000 quarters produced yearly of a quality superior to that of our own growth, and which, after a moist harvest in this kingdom, will sell at 10s. per quarter above our average.

The export from the duchies of Mecklenburg in the twelve years, from 1816 to 1827, both inclusive, amounted to 447,062 quarters, or an average export of 66,456 quarters.

The exports of Denmark, including Holstein and Sleswick, in the seven years, from 1820 to 1827, both inclusive, amounted to 730,571 quarters, or annually to 104,768 quarters.

Hamburg is to be viewed chiefly as a depôt, though it is the channel by which the wheat grown near the Elbe is transported to other countries. In the ten years, from 1818 to 1827, the whole amount of the export was 675,774, of which had been imported 434,192 quarters; thus showing, that the surplus of the district of which it is the natural outlet has been in ten years at the rate of 43,419 quarters yearly.

The exports from Bremen, according to the only accurate accounts I could procure, amounted annually to 1850 quarters. The whole annual rate of exportation of wheat from those countries may be thus brought together:—

	Quarters.
Prussia - - - - -	219,064
Mecklenburg - - - - -	66,456
Denmark - - - - -	104,768
Hamburg - - - - -	43,419
Bremen - - - - -	1850
	435,357

The exports of this small annual quantity, added to the rapidly increasing internal consumption, has reduced the stocks of wheat through the north of Europe to the very low state which has been already exhibited in this report. The amount of that stock, with the

exports from all the countries which produce a surplus of wheat, would not, if the whole had been sent to this island in one year, have been sufficient to fill up the space left vacant by the deficient harvest of 1816. In every place which I visited, I endeavored to ascertain the quantity of corn which remained on hand of preceding years, at the commencement of the harvest of 1827. In those parts which I did not visit, I attempted, by addressing letters to persons on whose accuracy I could rely, to learn the quantity, at least, of wheat in store.

I had no means on which dependence could be placed, of learning any thing respecting the Russian empire; but if a judgment can be formed from the decree issued last year, which prohibited the exportation of corn, there can be very little in that country.

By a communication from Mr. Consul Gibson, of Dantzic, dated the 3rd of January, 1828, the stock in East and West Prussia was as follows:—

	Quarters.
Dantzic - - - - -	230,600
Elbing - - - - -	48,000
Königsberg - - - - -	167,000
Memel - - - - -	3000
Pomerania, as by a confidential return:—	
Stettin - - - - -	1200
Colberg, Stolpe, and Geifswald	1630
Stralsund - - - - -	2370
	5200
Rostock - - - - -	25,000
Wismar - - - - -	10,000
Lubeck - - - - -	24,000
Kiel - - - - -	5500
Tonning - - - - -	9000
Hamburg - - - - -	25,000
Bremen - - - - -	22,000
Copenhagen and Corsoer - - -	4800
	578,700

Mr. Canning's remarks show that the wheat at Kiel and at Tonning had been shipped for Holland and Hamburg between the time of my being in Holstein and the date of his information. When I was at Lubeck, some portion of the wheat there was then actually shipping off for the French ports in the Mediterranean. The wheat stored at Bremen is of so inferior a quality as to be unfit for our markets, except in cases of great urgency.

In some of the places the quantities reported to me when I was there were less than are here stated. In every instance where the reports of the Vice-consuls, through Mr. Canning, give a larger stock than my own, those reports are adopted.

I understand that of the wheat stored in East and West Prussia,

one-third, or about 120,000 quarters, are of a very inferior kind; the same is the case with the whole of that at Copenhagen and Copenago. Of the 30,000 quarters stored in Rostock and Wismar, though none of the best quality, yet all would be marketable here, at from 5s. to 8s. below our general average price. Some of it had been shipped for Holland, and was actually unloading in the ports of that country when I was there on my return from the north.

In a report made to your lordships, drawn up two years ago, I had estimated the wheat actually in store, disposable for foreign countries to be,—

	Quarters.
	741,473
Unfit for England - -	185,140
Fit for England - -	556,333

At that time there were under bond in four custom-houses, 251,446 quarters (see Appendix, No. 29), making the provision for the following year amount to 807,776 quarters.

At present I estimate the whole quantity 578,700, deducting one-third of unmarketable quality for Prussia, making an allowance of one-half the stock at Bremen for the same reason, and the whole of the stores in Denmark Proper, with one-third of that in Mecklenburg, which has been shipped for France and Holland. I have lately received an account from Dantzic, that 17,000 quarters had been since shipped from thence for France. The quantity to be deducted from the store of 578,700 quarters will be, for

	Quarters.
Kiel - - - - -	5500
Tonning - - - - -	9000
Prussia - - - - -	150,000
Bremen - - - - -	11,000
Denmark Proper - - - - -	4800
Mecklenburg and Lubeck - - - - -	19,000
Dantzic - - - - -	19,000
	217,300

This leaves, as a provision for future export to this kingdom, if it shall be needed, 361,700 quarters. The quantity in bond in Great Britain now is 176,281 quarters, whereas in 1825 there were 251,446 quarters.

As in some places of the south of Europe wheat is higher than in England, and in many so near to the English price, as to be a preferable market, if only a few shillings' duty be imposed here, hence there is little prospect of any supply being sent to this country.

In this calculation of the actual quantity of wheat in store in the different countries of Europe, I have not noticed the kingdom of the Netherlands. When I was there, on my way to the north, I was satisfied, as well by the assurances of Mr. Melville, his Majesty's consul at Amsterdam, as by other channels of inquiry, of the fact that, on the average of years, the corn grown in that united kingdom

was insufficient for its own consumption, and that at that time no stock remained in the granaries. On my return, I found vessels discharging cargoes of wheat from the ports in the Baltic, with none on hand, and none expected to arrive by the Rhine from the interior of Germany. The supply of the inhabitants depended on the recent harvest, and on the imports from Hamburg, Bremen, and the Baltic ports. When at Limburg, in the vicinity of which city the best wheat is grown, and at Coblenz, where it is placed in river craft to be conveyed to Holland, in common times, I found none was dispatched, or likely to be dispatched, in that direction. A failure of the recent harvest in the eastern departments of France had raised the price of corn in that country, and in the adjoining states of Germany, to a higher rate than it would have been sold for in the cities of Amsterdam, Rotterdam, and Antwerp. It could not withstand in those markets, at that time, the competition with the price at which the corn from the north could be imported. It had, too, a ready market near at hand, on the borders of France, where it was foreseen, as has since taken place, that the deficiency must soon, by the operation of the law, cause the departments near to Germany to open their markets for the reception of foreign corn.

The anticipated demand for France had produced an effect on bread corn generally, but much more powerfully on rye than on wheat, because the former is used by a much greater portion of the inhabitants; its price had risen to an equality with that of the latter grain.

I proposed a question in every place I visited, and since my return to many individuals in England, Scotland, and Ireland; and the answer in almost every instance was, "that at no period (within the memory of the persons answering) was the stock of corn, in the hands of growers and dealers, so low as at the recent harvest." If I have been misinformed on this subject, it has not been from deficiency of inquiries, or from want of due examination of the facts. I am induced to give the more credit to this view, from having been assured by the largest factors and mealmen in the metropolis and its vicinity, where, from the difference in price between good and bad corn being greater than elsewhere, the best most readily finds its way, that at no period were so few samples of old wheat exhibited at Mark-lane as since the harvest of 1827, although, from the damp state of much of the wheat, the price for the little old corn that has appeared has been out of all proportion to the new.

It has been remarked, that after the harvests of 1813 and 1820, for some years, in the months of November and December, nearly as much wheat of the growth of those years was brought to Mark-lane, as of that grown in the harvest immediately preceding.

Although rye can scarcely be considered as bread corn in England, yet the small portions in store in the different parts of Europe are a striking indication of the more rapid increase in consumption than in product, where the bread is chiefly made from that grain.

STOCK OF RYE.

	Quarters.
Dantzic - - - - -	9000
Elbing - - - - -	8000
Koningsberg - - - - -	35,000
Memel - - - - -	1650
Stettin - - - - -	120
Denmark Proper - - - - -	8500
Tonning - - - - -	1500
Kiel - - - - -	—
Hamburg - - - - -	5800
Lubeck - - - - -	3600
Bremen - - - - -	12,000
Rostock - - - - -	7000
Wismar - - - - -	—

 90,170

In the accounts collected of the stores of bread corn, I have included what is required for the consumption of the places in which it is stored. As those cities contain together more than 500,000 inhabitants, besides their surrounding villages, and as the chief corn required for bread is rye, the stock of that grain is scarcely sufficient to supply the demand for a single month. Hence is to be seen, that in many places the price of rye has increased, whilst that of wheat has remained nearly stationary. In some places the price of rye was equal to that of wheat, and in others was far from being so much lower as the returns of former years exhibit.

If due examination had preceded the enactment, it is scarcely conceivable that the change which has been operated in the principle of the laws relating to corn in almost every state in Europe would have been effected.

Formerly, England, as well as other states, enacted prohibitory laws against the exportation of corn. This was done under an opinion, that the annual produce did not exceed, or that it barely amounted to, as much as was annually required for food. This opinion of a constant approach to want, even led in France and some other countries to laws which prohibited the transport of corn from one province to another in the same kingdom.

In this country, corn was generally forbidden to be exported, even to Scotland commonly, till the 13th Elizabeth, when it was allowed, on payment of 1s. per quarter duty on wheat. By the 35th Elizabeth, the duty was raised to 2s., and the export price was fixed at 20s. a quarter. The duty of 2s. was continued, and the price at which exportation was allowable, raised by 1st James I. to 26s. 8d.; by 21st James II. to 32s.; by Cromwell's ordinance, in 1656, to 40s., with a duty of 1s. 1d.; by the 15th Charles II. to 48s. with a duty of 5s. 4d.

In this state the corn export trade of England was regulated until

the change in the first year of William and Mary was made, which allowed exportation when wheat was under 48s. the quarter; and, instead of imposing a duty, as had before been practised, established a bounty of 5s. per quarter.

Between that time and the year 1815, seventy-three laws were passed, so various in character, that they seem all to have been grounded on some temporary expediency, rather than on any general principle of the relation which existed between the demand and the supply. The law of 1815 was founded on the principle most directly opposed to that of the former laws. All of them had rested on the opinion, that corn was commonly deficient in every country; and that of 1815, on the opinion that it was every where superabundant. Both opinions were founded on very contracted views of the subject, with slight, if any, examination; and both concluded in placing restrictions on the freedom of intercourse between nations, which were adopted into the commercial codes of most of the European states.

It must appear clear from the preceding parts of this report, and the appendix to it, that during a long period the prices of the corn of the continent which has been sold, have not been sufficiently high to remunerate the growers of it. The distress and complaints so universal among our own agriculturists, tend to show that notwithstanding, to favor and protect them, restrictive laws have been framed, which, with slight exceptions under pressing circumstances, have given them a monopoly of the home market, the selling prices of grain have not been sufficiently high to cover the expenses of raising it, and to afford a moderate profit on which to subsist.

It has been shown, that the stock of grain in store is much lower than at a period when a statement of its amount was framed, two years before; and that same statement showed so small a provision, that the credence it ultimately obtained was yielded to it slowly, and seldom without hesitation. It appears desirable to reconcile two appearances, seemingly in opposition to each other; viz. that the quantity of corn in hand was not excessive, and that the price notwithstanding continued below that at which it could be grown.

Without entering into any abstract reasoning on the effect of the relation which supply bears to demand, in the regulation of prices, it may be sufficient to observe, that those relations, though they may regulate prices in a long series of years, and over a very extended surface, yet that opinion, whether rightly or erroneously formed, exercises a much more powerful influence for a time, and that the term of the existence of such influence of opinion can be determined by no abstract reasoning, and even to experienced practical men appears altogether undefinable.

The statesman who has legislated, the merchant who has speculated, the exchange-banker who has negotiated, and the stock-dealer who has jobbed on abstract principles, overlooking the influence of opinion, has generally been observed to have failed in obtaining the

object of his pursuit. Such a man resembles the mathematician, who, having attained the highest acquirement in the pure sciences, and becoming capable of calculating accurately the force of the mechanical powers, should construct the simplest machine, without making any allowance for the effect of friction. Without duly allowing for that effect, the machine would not perform its destined purpose. It is equally dangerous to overlook or miscalculate the effect of opinion in transacting the affairs of public bodies or private individuals.

For a period of several years' duration, an opinion was propagated and extensively imbibed, though in opposition to the almost demonstrated doctrines of Malthus, that in every part of Europe the production of the means of subsistence was proceeding with a rapidity far greater than the increase of the population. It was asserted, by what many deemed very high authority, that all the world had carried cultivation too far; that food of every kind was too abundant, and that the inferior arable lands should be sent back to their former unproductive condition. Such statements, confidently asserted, scarcely denied, but never investigated, obtained a degree of credence as extensive as the influence of high names and high pretensions could spread them.

In the year 1825, I found, in all the corn countries in the north-east of Europe, this view of the matter to prevail universally among the growers of and dealers in corn; and it would have been like combating the winds to have contended against the prevalent belief. Every grower of corn, whether on a large or a small scale, affirmed, that there was on hand sufficient for several years' consumption. I saw that their barns and granaries on many of the farms were empty, or very nearly so; and the owners, still convinced of the truth of the general opinion, assured me, that though the necessary calls for money had compelled them to sell at however low a price they could obtain, I should find, on proceeding farther, such vast abundance in store, as would convince me they were right in their representations. I did proceed; I found no stocks any where, but every where I found the assurance, that farther on I should encounter a superabundant quantity. The farther I advanced from the sea-shore, the more scanty did I find the provision of bread corn, but especially of rye, which is the chief food of the country I then visited.

At that time the continental presses issued forth numerous publications pointing out remedies, which they called on their respective governments to adopt, to cure this evil of abundance. I collected a great number of such publications of various extent, and containing a great diversity of projects to cure the assumed evils. Most of them recommended that the corn should be stored under the care of the government, that the owners should receive acknowledgments, stating the quantity and value of the corn so deposited; which notes of acknowledgment were to be received for taxes, and to be made legal tenders for all payments. Others of them drew plans of buildings, and calculated the cost of them, of such enormous dimen-

sions, as would contain all the surplus corn of the districts. Some suggested, that caves should be dug in the sand-hills to receive this enormous surplus; others recommended, that all the sugar-hog-heads should be collected, filled with corn, piled one on another, as high as could be managed, and then be securely thatched. Such were some of the projects then seriously and soberly proposed, and at a time when the barns and granaries in the interior were nearly empty, and the stores at the sea-ports, to which all had been sent, were lower than usual.

Two years have, however, dissipated these projects, and the illusions to which they owed their birth. The harvests of 1826 and 1827 were slightly, if at all deficient in wheat, and rye was not below the fair average, whilst barley and oats only were below that average; yet no man spoke of any surplus, nor thought of that accumulation which two years before they had represented as equal to the consumption of many years.

I have had opportunities recently of seeing the persons who gave me such descriptions as I have noticed, and of conversing with some of the authors whose publications I have adverted to: they felt the error of their representations; but those who had partaken of the same error were too numerous for any one to feel ashamed of having been betrayed into it.

It was not unnatural, and was not perhaps unfair, to retort on an Englishman, by referring to the proceedings of his own legislature. It was often said, the governments of the two most enlightened countries of Europe, of England and France, legislated on the principle, that either in their own or other countries the cultivation of the soil had been carried too far; all the restrictions enacted in those kingdoms had been founded on that belief, in the idea that production had far exceeded consumption. When no public meetings for discussing such topics are allowed, where none of the temporary productions of the press indulge in the investigation of them, the views of the public must be formed by the proceedings which take place in the legislative assemblies of other countries. The debates and discussions which take place in them, on such subjects, are translated and circulated with freedom, even in the parts of the continent where every other kind of examination is sedulously kept out of view by the governing powers.

If statesmen in England and in France (it was said) of popular fame and of commanding eloquence have asserted, and if their assertions have passed uncontradicted, that the productions of the land had increased beyond the consumption of the inhabitants; that for the sake of affording protection to the home growers, prohibitions or restrictions were demanded on the commodities of foreign countries, and if laws on those grounds were subsequently enacted, it was natural that such views, which could not be supposed to have been taken without due examination and diligent investigation, should be adopted by us, from the confidence we felt in the persons who had

presented them to the public. Such is the kind of defence offered on the continent, for the involuntary but acknowledged error into which they had universally fallen.

It is, however, of much more importance to trace the consequences of this widely-extended error, than to ascertain the causes which have led to its general reception.

The prevalent opinion on the subject of excessive production naturally influenced the conduct of those persons whose capital and attention had been directed to the speculative trade in corn. There is, perhaps, no part of the capital, or of the attention of a country, employed more profitably for the community, than that which is devoted to speculation. Speculation may be attended with evils, like every other course of pursuits. Individuals may be, and often will be, unsuccessful in their operations, and involve themselves and their connexions in great distress; but the losses of such parties will commonly be balanced, as far as the community is concerned, by the gains of others; or if some part should be lost which no one gains, it will be too inconsiderable to affect the general welfare.

One great tendency of speculation in corn is to equalise prices, to keep them at nearly the same rate, in spite of the vicissitudes of climate in different years. When abundant harvests have been produced by propitious seasons, and a quantity of corn is raised beyond the immediate want of a community, the experienced capitalist comes to the markets, and lays in a store, which, in the occurrence of a short time, he knows or thinks must repay him a profit on the advances he has made. The grower is thus encouraged in his pursuits, and induced to continue his exertions.

When the minds of many individuals are directed to the same pursuit, and quickened by self-interest, a degree of knowledge of the relation which supply bears to demand, either immediate or remote, is gained, and diffused abroad; and the whole community becomes acquainted with its deficiency or its superabundance. If the former is known to exist, a spirit of parsimony is communicated, and much is saved, which, while it inflicts little or no suffering for the moment, lessens that suffering which might otherwise become intense at a later period. Such operations tend to spread the effect of scanty harvests over a longer space of time. They act as the prudent commander of a ship does, in the circle under his care, who put his crew early on a shortened allowance to prevent absolute starvation, when he fears his whole store may be consumed by a protracted voyage before it can terminate at the customary rate of consumption. If abundance is known to have been produced, the knowledge of it gives an impulse towards a more generous use of the articles which are yielded: each can afford to consume more, and each does in fact consume somewhat more; and thus the producer, in some measure, partakes of the pecuniary advantage of abundance.

It is knowledge of this economical kind, and the general diffusion of it, which marks the different stages of advancement in the pro-

gress of society. In its ruder state, each individual knows his own wants, and his own powers of gratifying them, but has no means of viewing the general wants and supplies in such masses as to be duly affected by their relation to each other. When abundance occurs, he consumes or wastes it, from not knowing that his surplus is wanted in other divisions of the state; when scarcity follows, he often endures privations and sufferings, from not knowing that supplies exist in other quarters.

The speculator in corn may have no views but those of his own individual gain; he may be guided by even the most selfish and grovelling motives, but he is no less a benefactor to the community than the most patient investigator into the operations of nature in the human frame, than the most persevering mechanic who invents a new machine, or than the enterprising merchant, who, by his application and industry, introduces a new and profitable branch of commerce. Like them, he may be actuated solely by his personal desires, but like them he becomes the instrument of communicating extensive benefits to the society of which he forms a useful part.

The advantages arising from the equalising of prices, and the diffusion of the economical knowledge here referred to, are purchased by the community at a very cheap rate. The limits between surplus and deficiency, in a commodity like corn, are not far asunder. A small surplus creates a great depression; a small deficiency, on the other hand, creates a great advance in prices. The capital required to adjust prices in the due proportion between those limits, is not large in proportion to the capital of the whole community; and the profit made of it, when the gains of one class of speculators are opposed to the losses of another class, is the only tax, and but a small tax, on the general mass of national wealth. It may not unaptly be likened to the oil applied to a machine, which, by lubricating its parts, prevents a degree of friction, to repair which would require a greater expenditure than the cost of the oil.

It is not contended that speculation cannot be carried too far, that it may not be exercised in such a manner, and to such a degree, as to produce much individual misery; but the correction of such misconduct becomes rather the department of the moral instructor than the study of the political economist, or the business of the political ruler.

Speculation is foresight; looking forward to distant periods, computing the probability or the improbability of certain events occurring, and shaping the conduct on such computations.

It directs the husbandman to sow his seed, the mechanic to construct his machine, the manufacturer to prepare his goods, the housekeeper to lay in during summer his fuel for a severe winter, and the father to provide subsistence for his offspring. Each of them may be disappointed in the probabilities on reliance on which he had acted: the field might yield no increase; the machine might be

rendered useless by a change of fashions; the goods find no customers; a winter may be so mild as to require the need of little firing; the family might become extinct; and the wealth of the solitary accumulator be left to enrich strangers or enemies. Such failures of probabilities are no injury to the public, nor, however far the art of over-governing has been stretched out in some countries, has it ever been extended to interfere with them, or with the calculators of them. There are, it is true, countries where the governing powers have enacted compulsory measures of precaution against probable casualties, have forced their subjects to insure against fire, against injury by hail-storms, and against the death of cattle, whilst they have more wisely left to individual judgment to calculate on other matters, as uncertain as the visitation of those calamities.

The moral teacher may well occupy his attention by defining the limits which separate the speculator from the gamester; by showing the benefits derived from one by the community, whilst the other is at best but a useless member of society: he may show the moral effects of sobriety, industry, and acuteness, created by the pursuits of one, and the recklessness, profusion, and not unfrequently miserable termination of the other.

The speculation now under consideration does not look to these moral effects, however extensively they may be supposed to spread themselves, or however they may inspire aversion when viewed, as they usually are, in individual instances, and not in groups or masses, as they should be by the statesman and legislator. The speculation on which we look with most complacency as applicable to corn, is not that which is confined to buying when it is cheap, with the expectation of selling with a profit when it shall become dear, but to that practised by those classes, who are in any degree interested in the diffusion of that commodity in the several forms it takes before it is consumed, such as the corn-chandler, the farmer, the miller, the baker, the brewer, the distiller, and other traders.

These, in a certain degree, may be represented as speculators. Each of them, when corn falls below the price of production, has been accustomed to keep a larger stock, in anticipation of such a rise as shall produce them a profit, than he would have done when the price is very high, and a decline in it may reasonably be expected. It is to these classes we look as the most beneficial speculators. They regulate the market price by their operations; they have the greatest interest in forming correctly the opinions by which they are guided, and when losses occur they are most commonly lessened by the amount of the profit they make in their character of regular tradesmen; or they are more than balanced by contemporaneous profits; and, at any rate, they inflict none of that painful feeling of self-reproach which is followed by losses arising from unsuccessful transactions of a more hazardous, or rather of a more gambling description.

~ ~ This tendency of speculation to the beneficial adjustment of prices

as between the producers and consumers, with due reference to the quantity of each kind of commodity demanded and the quantity supplied, will always be more or less perfect, as more or fewer impediments exist to the free circulation of such commodities. For this purpose, the greater be the freedom of trade, the greater approach to accuracy will be obtained in the adjustment of prices, and the more properly will the constantly opposing desires of producers and consumers be made to repose on that pure and simple justice, which is the parent of social concord, and the best foundation of national and individual prosperity.

It cannot be maintained, that no cases ever present themselves which will not justify restraints and limitations on the perfect freedom of circulation. Undoubtedly cases may, and do exist, which may be sufficient to justify the legislative power in opposing restrictions to this freedom of commerce. There are exceptions, however, and not rules of conduct, and, like all other exceptions, are not to be constituted into rules, nor to be carried farther than a convincing case can be clearly made out to defend them.

The financial demands of the community may compel its governors to obstruct the freedom of commerce, by imposing taxes on the importation of foreign commodities, which, whilst they may appear to be levied on the subjects of other countries, are in reality drawn from the consumers of such commodities in their own territories.

The protection of infant projects, which when brought to maturity promise to become fruitful sources of national benefit, may render restrictions on foreign goods proper for a time; but should only be adopted in the highest degree of probability of their future and extensive benefit. Thus, our silk and our linen manufactures, when only infant plants, had this kind of protection afforded to them, until now under it they have acquired such root and strength as scarcely to need it any longer, or to need it in a weaker degree.

Restrictions may be permitted to protect the inventors of useful discoveries, to confer on them those rewards for their labor to which they are entitled; and to stimulate others in the application of their mental powers to the advancement of the sciences, and the adoption of them to the practical improvement of the arts of life.

In the progress of society, interests have grown up, under the sanction of the laws, which might be injured by extraneous interference, and the injury to them might materially affect the general benefit. The preference to articles of the first necessity of domestic growth is natural, and almost universal. The chief articles of subsistence in each country are almost wholly of home produce; and in a country with a great density of population may be only procured in sufficient quantity to supply the demand of the inhabitants at a considerable cost. In such a case, a foreign interference, which would lower the home price so as to check interior production, might in a few years cause that domestic industry and application of capital which are the chief sources of supply so far to decline, as to afford

a less quantity, and thus elevate the price to the consumers higher than it would be raised by trusting to, and by duly fostering and protecting, its home growth.

It is on this ground, and this alone, that the protection, as it is called, to agriculture will admit of defence. It is to protect the consumer against a price too high, which would take place, if a portion, by no means a large portion, of our supply depended on foreign growers of wheat, that any restriction on the trade in grain can be justified. If it cannot be grown with profit at home, the home supply will diminish to an extent that no foreign supply can replace, without a sacrifice of more money than would have insured a sufficiency from our own soil. It becomes, in this view, simply a question, whether it be better to yield some benefit to the home grower, at the expense of the consumer at first, rather than leave the latter to rely for such a portion of his supply from foreign countries as must reach him at ultimately higher prices, whenever a slight diminution in the fruitfulness of a season may compel him to require a demand a little beyond what he usually wants.

If the producers are to be protected, it should be chiefly with a view to the protection of the consumers: they form the far larger part of the community in this country, and theirs is the paramount interest in society.

It has been estimated, that if our own growth of wheat were so reduced as to compel us to depend on foreign countries for a constant supply of one-eighth part of our consumption, such a quantity would be furnished, if it could be furnished at all, which is very doubtful, at a greater expense than any sum which it would have cost in protecting our own growers, so as to encourage them to raise enough to make it unnecessary.

It is on such grounds as these,—for it is impossible to attribute it to lower and more selfish considerations,—that our legislators have at various periods unanimously determined on granting protection to our own cultivators; and that the differences of opinion that have arisen among them, have only been as to the nature and the extent of that protection.

There may be some few other cases in which a just and wise government may be induced to place restrictions and prohibitions on the interchange of commodities; but as far as they do so, they will do it with suspicion of its effect, and with careful attention not to extend them farther than is absolutely necessary to attain the object in behalf of which they are imposed.

It might have been incorrect not to have noticed the exceptions to the general adoption of the utmost freedom of commerce as rules of conduct; and if, in having done so, I have digressed too widely, I must trust to your lordships' indulgence to pardon me.

Supposing the value of the kind of speculation here described to be very great in adjusting prices between producers and consumers, and in equalising prices between seasons of scarcity and seasons of

abundance, it may be proper to consider the effect in diminishing, if not in annihilating speculation, which has been operated by the erroneous idea, that production was proceeding with a more rapid pace than consumption, and by the laws which have been enacted in England, in France, Spain, Portugal, or Sweden, and elsewhere, to remedy the supposed inconvenience.

It is difficult to bring under any accurate statistical review the application of capital to specific objects. It is scarcely possible to ascertain the whole amount of capital employed in any one branch of commerce, in any kingdom, even in a branch not very extensive. The whole that can be accomplished, with whatever faithfulness and industry inquiries may be conducted, will merely attain an approximation to accuracy, which can only be perfectly satisfactory to such as have arrived at the same results by their individual observation of what is passing around them.

The investigation of this part of the subject appeared of too much importance to allow of any means being omitted by which information could be obtained. In every part of the continent that I visited, where I came in contact with intelligent individuals, either in private or official stations, I proposed the following questions, either in writing or orally:—

1st. Have the cultivators of late years kept by them so large a reserved quantity of corn as they were accustomed to do in former periods?

2nd. Has the trade of buying corn in cheap seasons, in order to sell it at advanced prices in dear seasons, been carried on so extensively of late years as it was formerly?

3rd. Has the capital heretofore employed in such trade in corn been of late diminished by being applied to other branches of industry, or has it been dissipated by the losses arising from the low prices of corn?

4th. Have those mealmen who buy corn to convert into flour, kept so large a provision beforehand as they were formerly accustomed to do?

5th. Has the stock of flour in the hands of bakers been as great of late years as it used to be formerly?

To these questions the answers were as various as could be expected from the multifarious characters, pursuits, and knowledge of the individuals to whom they were proposed. As far as regards the first of these inquiries, I was assured that, owing to the very low prices, the farmers were compelled to carry to market much larger quantities than usual, to raise that sum of money without which they could not continue their operations. That their annual harvests had been disposed of at much earlier periods than usual, and that with many there was hardly a sufficient store left to subsist themselves and their families to the next harvest. The dealers in corn were said to have lost a large portion of the capitals by their trade, and hastened to employ what had been preserved, by becoming jobbers in the funds of the several states that surrounded them.

The mealmen were said to have held themselves bare of stock, from the expectation of a still greater decline in price, whilst the bakers, from the same apprehension, had followed their example.

Without any annual surplus quantity, every market became glutted from needy sellers, and that glut gave rise to the projects which have been already noticed, of building gigantic warehouses to preserve the corn.

As represented to me, every one seemed to act as if corn was like rain, descending spontaneously from the heavens, and requiring, like it, neither the expenditure nor labor of man; and each purchaser seemed as if waiting for its descent, when a supply might be obtained with no pecuniary sacrifice.

Since my return to England, I have circulated the same queries, as far as my connexions would enable me, in every part of the United Kingdom. I have received answers to them from some parts of England, from the most interesting parts of Scotland, and from several counties in Ireland. I had joined with these questions, one to inquire into the state of the stock of corn left in the hands of cultivators, dealers, and mealmen, in the commencement of the harvest of the year 1827.

By some of the communications, which are copied in the Appendix, No. 40, it will appear that, except in Ireland, where the trade of a mealman differs from the same trade in England, the stocks have been much lower than formerly, and the trade of buying corn by dealers contracted within a very narrow compass, if not become wholly extinct. It will appear by the testimony before given, that in autumn, 1827, the reserved corn was reduced to a very minute quantity.

As far as my inquiries have obtained answers at home, I have thus found good reason to form the conclusion, that the same influence of opinion which has prevailed on the continent has produced effects equally deleterious on our own agricultural industry, and been the means of plunging many active, intelligent, and careful farmers, as well as too many landed proprietors, into a state of great embarrassment and suffering.

From the more rapid spread of knowledge, to say nothing of its more easy acquisition, it was not to be expected that the errors on so important a subject should have continued so long as from 1819 to nearly the present time; but it should be recollected that the organs of all parties concurred in keeping up the delusion. Those who applied to the Legislature, in 1815, for what they called protection; those who advocated their claims, and ultimately enacted them; and those who resisted unsuccessfully those claims; all agreed in affirming that our country and the continent superabounded in corn, though none of them thought of instituting any inquiry into the accuracy of the statements which they implicitly adopted.

The extinction of speculation in corn, and the small stocks kept by the farmers, mealmen, bakers, distillers, brewers, corn-chandlers,

and others, may be attributed mainly, if not solely, to the exaggerated representations which were sedulously propagated, of the vast stocks accumulated on the continent ready to be poured into this country like a deluge, unless the law opposed the remedy of prohibition, or of restriction, against the threatened ruin.

The remedy that was demanded was applied, and those who made the demand, and were indulged with the remedy, have been since involved in greater distress than before their request was complied with. At no period was the loss of agricultural capital so great as in the years 1822 and 1823, when the restrictions and prohibitions of the law of 1815 were in full force, and had not been infringed by such partial infractions of it as were deemed necessary in 1825, 1826, and 1827.

It is but justice to allow that all the parties who were engaged in the corn controversy of 1815, were equally deficient in the foresight, which, if duly exercised, would have led them to expect the annihilation of all speculative trade in corn, as the probable consequence of the measure then under discussion. With all that characteristic acuteness that controversy usually produces, none was exercised to discover the fatal consequences of that extinction to the growers and dealers in corn, and to the proprietors of the soil, which followed in its train.

The immediate effect of that law was suspended by the calamitous harvest of 1816, which opened the ports to all foreign corn, without any restriction or any duty. The harvest of that year at its commencement promised well; but soon a constant succession of westerly winds bringing heavy showers of rain, attended with much dampness and great heat, destroyed the hopes of the husbandman, impeded the securing the corn, caused much of it to sprout before it was even cut, and much more whilst standing in sheaves on the fields, and on the whole so affected the produce of the year, as to make it alike deficient in quantity and in nutritive power. The western clouds, which brought the successive showers, seem to have emptied themselves before they reached the east of Europe. The harvest in Poland and in Russia was abundant, and the season for housing it favorable; so that by exercising great parsimony, and by having a reserve of the former year's produce, arising from the exclusion from our markets, those countries were enabled to export a very large quantity, as soon as the state of the harvests in the west of Europe became known to them. Thus from Riga, which had exported in the year 1815 only 967 lasts of wheat, was shipped in the two succeeding years 11,383; from Dantzic, which in 1815 had shipped 1479 lasts, was in the next two years exported 33,963 lasts. That which had passed from Poland, by Thorn, was in 1815 only 36,793 quarters; and in the two next years was, in 1816, 172,724 quarters; in 1817, 258,307 quarters. The years 1816 and 1817 were the most calamitous for the dealers in corn, the mealmen, and the bakers, that have ever been experienced. Numerous failures took place, and those who

were enabled to withstand the trial, were so far crippled by the losses they had sustained, as to be incapable of keeping up their stocks to nearly the extent they had before usually held. Some part of this suffering may undoubtedly be attributed to the calamitous harvest; but it was aggravated and augmented by the state of the law, which created a most sudden and unprecedented fluctuation in the prices of grain, but especially of wheat. Thus wheat, which was in the month of June, 1816, at the price of 73s. 7d. per quarter, rose in the month of December to 104s. 2d. per quarter, and in the month of June, 1817, was at 114s. 11d., fell in September of the same year to 74s. 1d. per quarter.

The law of 1815 had closed the usual channels. By being pent up, an accumulation of corn had been formed beyond calculation; and when by the operation of the season on the law the barrier was removed, the rush of the mass involved many of the dealers in ruin, and all in distress.

The effect of this damming up for a season, strengthened the erroneous opinion of the extensive productive powers of the corn exporting countries. The small regular annual excess of those countries would be almost unfelt by the several extensive countries which are occasionally deficient in their home growth; but when, by restrictions, that excess is compelled to remain in a few spots till a great mass is collected, and a sudden occasion liberates it, a terror is spread among the sober part of the dealers in corn, a panic ensues, and most mischievous consequences follow. It is like a small rivulet, whose regular course might be made conducive to the fertility of the fields near it, if equably distributed over them, but when, by being dammed up, it is collected to a vast body of water, and is suddenly discharged, it carries sweeping destruction to all that it encounters in its course.

To our cultivators this course is excessively pernicious. The dam can only be opened by an unpropitious year, by a season of deficiency, when the growers ought to be paid a price high in proportion to that deficiency; but the accumulation of years, from foreign countries, rushing in as soon as, or even before, their crops can be brought to market, creates a sudden depreciation, as it did in 1817; which inflicts on them the misery of a low price, combined with a diminished portion of produce. As the cost of production must depend on the profuse or scanty multiplication of the seed, and as the cultivator is fairly entitled to a remuneration for his capital and his labor, it is certainly contrary to the rules of justice, that a system of law should be so constructed as to prevent him from obtaining equitable profits. This is, however, now done, whenever a very deficient harvest, such as shall open the ports to the mass of foreign corn, accumulated by the existing prohibition, shall entitle the husbandman to a very high price, to indemnify him against loss, or at least to lessen the inevitable loss which such harvests always bring.

It is this accumulation, not the supply which would regularly reach us, were no prohibition in existence, that depresses the agricultural interests—by the exaggerated representations of its amount, when we have abundant harvests, and by the too rapid influx, whenever the harvests here are deficient.

I cannot think, that in the years 1822 and 1823 wheat would have sunk so low as 38s. per quarter, if the ports had been opened to foreign grain, and the surplus of continental Europe had been sent to this country, each year as it arose. If it had been known to what extent we had imported, and what price it had cost to raise the great mass of domestic growth, on which we most chiefly depend; when it had fallen below that price, capital would have been invested in it with reasonable assurance, that at no distant period the change of seasons would render it a beneficial speculation. If such capital was not to be found among the usual dealers in corn, it was sufficiently plentiful for the prospect of gain to have attracted it from other quarters. Some of the millions which have been squandered in mining speculations beyond the Atlantic, or in loans to ephemeral or embryo governments, might have been invested in corn, and a small portion of those sums would have prevented corn from falling much below a remunerating price for a continued series of several years.

If each corn-merchant, mealman, and baker, had kept beforehand a reserve stock, greater by only a few weeks' consumption than he was accustomed to provide in seasons of high prices, and which the lower value would have enabled him to do with the same amount of capital, it is not probable that the years here referred to would have witnessed the depressed prices to which wheat then fell.

The prevailing opinions, that production was advancing at a more rapid pace than consumption, and that henceforth only greater depreciation was to be looked for,—opinions thus promulgated by high authority, and sanctioned by legislative enactments, forbade each prudent tradesman to hold a larger stock than the temporary calls of his regular trade made indispensable.

Those farmers, too, who were not harassed for money, who in past times, when prices were low, would have withheld their corn from the markets, hastened to sell, under the prevailing impression, and thus the wealthy and the prudent contributed equally with the distressed and the negligent to create a glut which was universally disastrous.

If the prevailing opinion, of the growth of corn exceeding the consumption, should be in some measure changed, and more accurate views on the subject entertained, and the law, which was founded on that opinion, should continue in force; if below a given price all foreign corn is to be prohibited, and beyond that price to be admitted free of duty, the speculative trade in grain can never become of sufficient extent to adjust the price equitably between the producer and the consumer. Every man will be apprehensive of the price passing the limit of prohibition before he can dispose of his stock,

and then the quantity, whether pent up for a longer or a shorter time, would reach our ports in a mass, and dissipate the hopes of gain which the speculator had anticipated.

The present state of the corn-law has a tendency to excite internal discontent, and affords to mischievous people easy means of increasing it. The penning up of wheat in countries of small extent soon creates a glut in such countries, although the quantity really accumulated there may be very minute, and such as if distributed here would produce no sensible decline in price.

A few thousand quarters of wheat, for instance, in Holstein, Mecklenburg, or Denmark, for which there was no foreign market, would reduce the price even below half the cost. Needy sellers must take what is offered, and reluctant buyers will offer a very low rate. A small sale fixes a price in such cases, and it is circulated with delight by the designing among the ignorant, with appeals of affected tenderness towards our poor, who are compelled to pay so much higher a price for the common necessities of existence.

Estimates have been presented to the public, founded on the supposition that 20,000,000*l.* might be saved to the public annually by the importation of 10,000,000 quarters of corn, at 40*s.* a quarter less than our English price, which sum has been represented to be extorted from the pockets of the community, to gratify the luxury of the landed proprietors and the greedy selfishness of the farmers; though the authors of such estimates must have known, or must have been woefully ignorant if they did not know, that the demand of one-twentieth part of what they reckon on could not be extracted from the whole continent, without raising the price there as high, or even higher, than the average price in England.

It is not wonderful that such representations should have created jealousies and dissensions between the agricultural and manufacturing interests. It is rather more wonderful, and not a little to the credit of both interests, that they have not produced a still greater effect. It must be the obvious duty of any government to use its best endeavors to remove a stumbling-block which may stand in the way of internal contentment and tranquillity.

One threatened evil of great magnitude is to be anticipated from the circumstances in which we have been placed by the existing corn-law. A season of scarcity may be looked for at some, perhaps no very distant, period: it may extend, as it usually has done, to the countries which commonly export corn hither. In the occurrence of such seasons, formerly, there was always a reserve stock in store distributed amongst dealers, mealmen, bakers, and in small quantities among a variety of other traders. It is not too much to reckon, that the store in the hands of the three great trades, taken one with the other, amounted to one month of each of their sales.

To say nothing of the growers, who, from their more prosperous circumstances, formerly held a larger portion of their growth than they have lately done, there must have been constantly food for three

months' consumption in reserve against unpropitious harvests. At present, when the speculative trade in corn is nearly extinct, when the millers and bakers have on hand not more than half their former quantity, a harvest slightly deficient coming on us with so short a reserve, would be felt with great severity.

The difference of the whole, or nearly the whole of the usual stock of the speculators, and half that of the mealmen and bakers, is a quantity far beyond what we could ever draw from all the world by the attraction of the highest prices that were ever offered, and at a time when much corn had been pent up by the operation of the laws of England and France in the continental depôts.

At the present time, had the harvest of 1827 required it, it is doubtful if ten days' consumption of wheat could have been drawn from the whole continent, even at 100 per cent advance on the prices of that period.

The prospect of a future increase of the production of corn on the parts of the continent from which it can be conveyed to this country, is a subject worthy of some examination. I hope to be pardoned by your lordships, if, in the course of the investigation, I should be deemed to have travelled beyond the limits of the instructions communicated to me, by introducing or alluding to circumstances and facts, which, though well known, did not all present themselves during my last journey, but had been either ascertained before, or have been collected since my return.

This subject merits the more attentive examination, from the course which the discussions relating to any alteration in the corn-laws have assumed, in the arguments of the two parties who have been most diametrically opposed to each other.

Those who have been most strenuously opposed to the introduction of all foreign corn, except in cases of extreme urgency, have assumed as the foundation of their reasonings, two positions—first, that the quantity of corn produced on the continent very far exceeded the consumption of its inhabitants; and second, that there existed in those countries an almost unlimited power of extension, which would overwhelm this kingdom, and reduce the value of land and its products to some ruinous but undefined extent. From this view, we have seen resolutions laid before one House of Parliament, which were founded on the assumption of quantities of corn being introduced, which in amount at least are highly improbable, and which, if possible, can only be so when a scarcity, approaching to famine, shall have raised the price so high as to extend the circle from which it must be collected.

Those who have been led to the most opposite conclusion as the result of their discussion, who have contended for the most unlimited importation of foreign corn, have assumed the same opinions as the foundation of their argument; they have then deduced the conclusion that such a quantity of foreign corn would be imported, if their

schemes were to be adopted, as would, by lowering the price, be a yearly saving to the nation of as much, or nearly as much, as the whole interest on the funded debt amounts to.

When the facts stated by one opposing party are as easily applicable, or are deemed to be more applicable, to the result which the other wishes to arrive at, they will not be very readily denied, or seldom be examined with any scrupulous accuracy. To reason from the concessions of an opponent is considered fair in the dialectic art; and is a more easy labor to the initiated, than the slow business of examining the evidence on which the facts are grounded.

The facts assumed by one party, acquiesced in by the other, and promulgated and reasoned on by both, have passed current, with little examination, from one description of persons to another, till, with few exceptions, they seem to have obtained too implicit credence from our legislators themselves.

The first of these assumptions, "that the quantity of corn produced on the continent very far exceeds the consumption of its inhabitants," is discussed in another part of this Report; and the examination of the second opinion, "that there exists in those countries an almost unlimited power of extension;" shall be now entered on, with the unmixed and sole desire to ascertain the truth with as much accuracy as the nature of a future and contingent prospect will admit.

In two of the districts which I have recently visited, I have been induced to think that, from their soil, their mode of cultivation, and their vicinity to the sea, Mecklenburg and Holstein can raise corn, but especially wheat, and convey it to this country at a less cost to themselves than it can be rendered by the cultivators in any other part of Europe. Their power is, however, chiefly derived from the very narrow extent of the land which is appropriated to the growth of wheat. On most of the best cultivated farms, that portion on which wheat is grown seldom exceeds one part in eleven; and on those conducted with the smaller capitals, and consequently on a lower scale of husbandry, the whole wheat land does not amount to one-thirtieth part of that which is under the plough. In any attempt to enlarge the extent of wheat land, they must make a change in their system. They must appropriate a greater proportion to corn and to fallow, and thereby diminish their stock of cattle and their consequent supply of dung, or they must expend the strength of an increased number of horses on land, which without dung and (as they who are the best judges think) without fallow, will not yield an increase beyond the cost of the seed and the labor. Any great additional extent of wheat, therefore, would cause a great advance in the cost of their whole annual growth of that grain.

If the same portion of manure (about twelve loads to our acre) were applied to a larger extent of land, the additional quantity of wheat which such extent would produce would not cover the increased cost of labor and seed, and the effect of it would be felt in the

diminished produce of each succeeding crop in the rotation. Every practical farmer is so well acquainted with this part of the subject, that I am almost ashamed to introduce it to your lordships' notice. In a new country, like Canada, the Cape of Good Hope, or Australia, the more land is ploughed and sowed, the greater will be the produce; but the case is far otherwise in old and densely peopled countries like Europe. Even in those countries, however fertile the soil may be originally, its nutritive qualities are very soon extracted by excessive cropping with corn, and demand a renewal of the fertility by artificial and extraneous means.

The chief revenue, and the only profit drawn from estates in Holstein and Mecklenburg, of late years, have been from the sales of butter, cheese, and salted meat, in the first country; and from the same sources, with the addition of that derived from the fleeces of their sheep, in the second. Such produce is easier and cheaper to store, costs less according to its value in money to remove to distant markets, and is less subject to fluctuation in price than the several kinds of grain. If, then, in each rotation of the ploughed land, the portion left in pasture were to be curtailed of one year, and a proportionate number of cows and sheep were, as they must be, also curtailed, the cultivator would be guilty of the folly of giving up a certain gain, for the sake of a possible and even probable loss.

Although in the countries under consideration, the greater part of the land is cultivated on account of the proprietors, and the most productive under their own immediate inspection, yet considerable estates are let to farmers, with sufficient capital to work them, and in small allotments, called *bauer hofs*, to lesser tenants. The leases are granted for one, two, or four rotations of crops, or for seven, fourteen, or twenty-eight years, or when the rotation is different, for corresponding terms. The tenants are strictly bound to a prescribed mode of cultivation, and to consume all the hay and straw on the land. It is in vain, therefore, to expect that with this class of husbandmen any such increased quantity of corn, and especially of wheat, as could affect foreign markets, will be raised. No landlord would intrust his land in the power of a tenant who showed a disposition to deviate very widely from the long-established practices of the district, unless that tendency was to grow less instead of more corn in each rotation.

As the proprietors in general understand cultivation quite as well as their tenants, they can and do enforce the observance of the restrictive covenants in their leases, and watch for any infraction of them with sedulous attention.

The land cultivated by the proprietors themselves may certainly be brought to a different, and perhaps a more productive course of husbandry. I should doubt, however, if it would be ultimately more advantageous to them than the system they at present adopt. The gross produce might be more, and yet the net produce be less. It might bring a greater amount of revenue in sales, but a less in clear

gain. It would require a greater outlay to commence the alteration, and as very few of the proprietors have much other capital than the land they occupy, and the stock on it, they must, to change their system, raise money by mortgage, or other means, which can seldom be resorted to without considerable sacrifice. Those proprietors who are in more easy circumstances, are in general averse to any such changes as are attended with risk, and contend too earnestly for the superior excellence of their plans to be disposed to change them for any very different. Such persons apply their skill and capital chiefly to the improvement of the races of their live stock, and to the accumulation of the largest possible quantity of manure.

One example of introducing foreign farming in the countries under consideration, has had the effect of deterring others from adopting it, and made them more than ever satisfied with their own.

A nobleman, Baron S——, who possessed a considerable estate, was anxious to improve it. He was a man of reading, reflection, and enterprise. Having heard and read much of the excellent farming in Scotland, and judging from the similarity of climate of its adaption to his own property, he resolved on an experiment to introduce it. He passed some time in the Lothians and other parts of Scotland, attentively studied all the economical and practical habits of that country, and began to practise them on his own estate. By the alternate growth of green crops and corn crops after commencing with a year's clean fallow, he calculated that he should be able to maintain a greater stock of cattle, and yet grow a greater quantity of corn.

Whilst the land was under the fallow, and before the green crops were sufficient to support his stock, he was under the necessity of buying a large quantity of hay at a high price to maintain them, as well in the summer as through a long northern winter. The next summer, as is more usual on the continent than in this island, was dry; and the turnips, on which great reliance was placed, nearly failed, and again hay was to be bought. Clover, which was looked to for summer food, was uncertain in produce; and when a wet season was most favorable to its early growth, the crops of corn in which it was sown were so laid as to destroy the plants, and disappoint the hopes of the produce of the next year. The climate was found to be too cold for winter tares, and summer tares yielded but a very small quantity of green food. Experiments were made by sowing peas, summer tares, and oats, together weekly, in patches of about three acres each, which extent was estimated to produce as much green food, in each week, as, when cut, would subsist 100 cows; but in some weeks the green food was insufficient, in others, it dry, it totally failed, and then hay must be purchased at whatever rate.

Such and other unexpected disappointments followed for several years, till he became wearied out with continued calls for more capital, when he determined to let his land under the customary

covenants, and to address his attention to other subjects. During the course of his cultivation, the gross produce of the land had been considerably augmented; but the additional cost of that increase had far exceeded its ultimate value.

Another circumstance which must tend to check any very great extension of the growth of the Cereales, is the greater uncertainty of their produce than that of pasture land, chiefly owing to the severity and vicissitudes of the climate.

I was informed by a very intelligent friend, who has kept an accurate register of the state of his crops for many years, and who gave me a written memorandum, after much and interesting conversation, on this particular branch of the general subject of his agricultural experience. Wheat, he states, produced 18 bushels an acre on the average: out of 38 crops, six had been nearly destroyed by frost and wet cold; five by mildew, by a bad flowering season, or by bad harvest weather; six were very fine crops, eight good crops, nine middling crops, and four very poor crops.

The best field in the best year yielded 49 bushels to the acre; the worst field in the worst year, 10½ bushels to the acre. Oats, he says, in 15 crops, seven were good, two most excellent, three middling, three very bad; when sown with three bushels an acre, they yielded on the average of the years 15 bushels; when sowed with six bushels, 26. The best field in the best year gave 70 bushels per acre from six bushels of seed; and the worst in the worst year, 18 bushels from the same quantity.

The gentleman to whom I am indebted for the foregoing statement, Baron Voght, of Flotbeck, in Holstein, to whom I owe the acquaintance of several of the most intelligent, hospitable, and estimable men in this country, is as well known in his own neighborhood for practical skill, displayed on that portion of his estate which he cultivates himself, as he is at Vienna, Berlin, and Hamburg, for the enlightened and philanthropical plans he has introduced into those cities, for the management of the poor and of the prisons.

In answer to my questioning him, if the production of corn could be considerably increased by higher prices, he replied, "In my opinion it cannot; because the necessary food prevents the breaking up any of the five parts devoted to pasture ground, because the farmers can by no possible means increase the dung, nor procure artificial dung, which, if they could get it, would bring a loss with wheat at 28s. per quarter here.

"The introduction of marling, which commenced about 30 years ago, has increased the produce of corn; but until another such improvement can be discovered, or until those properties of 2000 acres are divided into farms of from 200 to 400 acres, and stall feeding or soiling introduced, and five times as much capital employed on land as at the present time, no considerable augmentation of produce can be expected."

The same opinion, but more strongly, is expressed in the very interesting letter of Mr. Jverson, of Schwensbye.—See Appendix, No. 20.

I have detailed more at length the views I have taken of the probability of augmented produce in Mecklenburg and Holstein than I should have otherwise done, because those provinces are advanced in husbandry several stages before any other large proportions of the east of Europe that I have visited. A kind of convertible husbandry, the best, I must presume, adapted to the soil and climate, has been introduced. The whole is enclosed, and divided into fields, of sizes appropriate to the extent of the farms, and thus present the most English face of any country I know. Very few vestiges of the feudal system remain. The land may be purchased by any person, whether noble, citizen, or peasant. It has on its coasts the most convenient ports for shipping its produce; and if, with all these circumstances in favor of the presumption that its produce of exportable corn will increase, the best judges think the reverse, we must either yield to their opinion, or seek to destroy the foundation which they have stated, as the ground on which that opinion is grounded.

The far greater part of the continent of Europe is cultivated on a widely different plan.

The greater part of France, a still much greater portion of Germany, and nearly the whole of Prussia, Austria, Poland, and Russia, present a wretched uniformity of system. It is called the three course husbandry, consisting of—1st, One year's clean fallow; 2nd, Winter corn, chiefly rye, with a proportion of wheat commensurate to the manure that can be applied; 3rd, Summer corn, or barley and oats. There are occasional and small deviations from this system. In some few cases potatoes, in others peas, are grown in the fallow year; but they are only minute exceptions to the generally established system. It is not surprising that under such a system the produce should not be much more than four times the quantity of seed, at which rate it is calculated; as appears to me rightly, by Baron Alexander Humboldt.

The constant cropping with such exhausting a substance as corn must, in time, deteriorate the best soils we are acquainted with. The process of exhaustion may go on more or less rapid, according as the soil is more or less fertile, or according to the proportion of those component particles which are adapted to imbibe the greatest portion of oxygen, in the process of fallowing; but a gradual, at however slow a pace, progress must be making from bad to worse.

The fields are almost universally unenclosed, and exposed to the most injurious effects of a changeable and an intemperate climate. The ancient feudal system of tenure is still continued, modified indeed and softened, in some few parts, but not to a degree or an extent that deserves to be taken into account in the view now under consideration of the countries as a whole. The peasants, for the

most part, are *adstricti glebæ*; and where, by recent laws, their condition has been changed, the practical effect has yet hardly had time to exhibit any observable improvement in their state. Labor, whether of men or of cattle, is exchanged for the occupancy of land; and hence the labor is performed in the most negligent and imperfect manner, that vigilance of an overseer, who cannot be every where present, will allow.

The lords of the soil, besides their demesnes, have the right of pasturage on the fields of their tenants from harvest to the next seed time; hence none of those intervening crops which tend to enrich the soil can be cultivated, without infringing on their rights.

Among the cultivators of the land, little or no accumulation of capital has been formed; from the lord to the lowest grade of the peasantry, all are alike destitute of disposable funds. The lords are only rich in land, and sufficiently at their ease, if that land be unincumbered with mortgages or annuities. The peasants, whether owners of the live stock and of the implements, or having the use of them with the land from its owners, are content to live on, from year to year, eating their own produce, growing their own wool and flax, and converting them into garments. They are quite satisfied, if they can dispose of as much surplus produce as will pay the small share of money-rent which becomes due to their lord.

Where an overwhelming majority of the inhabitants, amounting in some cases to nine out of ten, and in others to four out of five, of the whole population, are producers of agricultural commodities, the prices in money to be drawn from the small number of the purchasers of such commodities must necessarily be too trifling to admit of much accumulation of capital.

The picture here given is by no means exaggerated, but will rather appear in colors too cheerful to those who have dwelt the longest on that part which comprehends the north and east of Germany, the kingdom of Poland, and the empire of Russia.

The present purpose is, however, to consider the probability of such an improvement as may make the countries in question not only sufficiently productive to afford abundance to its inhabitants, but to bring to the general markets of richer and more advanced countries such a quantity as can in any degree affect their prices.

It is hard to point out which should be the first step towards such an improvement as is here contemplated. Should it be by amending the soil, or by raising the condition of the cultivators? If it be assumed, that the first of these should be earliest undertaken, we may consider the obstacles that present themselves to oppose it. The land must be first divided into just allotments. The shares of the lords, and of the subjects or copyholders, must be adjusted according to some scale of the relative value of their respective rights. The adjustment of such a scale over a whole country, peopled by a race with no perfect view of the object for which it is undertaken, filled

with jealous apprehensions of the infringement of their little property, and alive to every symptom which threatens its diminution, must create alarms, and such derangements of their internal tranquillity as no government would voluntarily encounter.

That something like this was done in Prussia, is not sufficient to induce other governments to undertake it. At the period when the change took place there, the people of all ranks were more alarmed with a dread of the continuance of the foreign tyranny under which they groaned, than by apprehension from any measures emanating from their own paternal government. The greater fear completely swallowed up the less, and as a means of annoyance to their oppressors, it was an effective direction communicated to that fear. As a measure of self-defence it was adopted, and in that view was successful; but it cannot be stated without regret, that though 20 years have passed since the change was promulgated, the improvement has not been so strongly marked, as to allure any other of the great ruling powers of the continent to pursue with haste the same energetic steps.

To return, however, to the immediate subject of our inquiry, let us suppose the popular reluctance to be overcome, the lords to have added to their demesne lands that share of what was granted to their tenants, to which they would be fairly entitled for their feudal services in lieu of rent, and for the right of pasture and their other prerogatives. Let it further be supposed, that each small subject, or tenant or copyholder (for we have no one word in our language exactly synonymous with *unterthaner*), from a small tenant to become a smaller freeholder, with land lying compact but unenclosed. Without money, in many cases without cattle or implements, of what use can the land be to him? Until it is enclosed, a convertible system of husbandry cannot be adopted; for the cattle on his neighbors' lands could not be kept from feeding on his crops in the early stages of their growth. If he has no money to enclose his land, and none to purchase stock, he must of necessity dispose of it, as the only means of even a temporary subsistence; and when the trifle he could get for it, and in such circumstances it must necessarily be but a trifle, was expended, he must look out for day labor in a state of the country where no capital would be found to give employment to laborers. He must become a pauper in a country where no provision for the poor is known, except for such as are too old, or too much diseased to work.

The augmentation of the numbers of those who have no other property but the labor of their hands, however inseparable it may be from an advanced condition of society, where there is no sufficient capital to furnish them with employment, is a most tremendous evil in the state of society, in which no such sufficient capital has been previously collected.

If the lands were sold, its purchasers would not be found among those who were, like the settlers, already cultivators. The small property they possessed would all be too imperiously demanded for

their own cultivation, to have any to spare for investment in land. The purchasers must then of necessity be the capitalists of the commercial towns, thinly scattered, and often very distant from the estates. The land must be let to tenants, who would have less interest in the permanent improvement of the soil than its former cultivators; and it seems highly probable, that, in such hands, even the gross produce would become less than at present, whilst the net produce would be still more diminished.

The residences of the peasants are generally near together, in villages so distant from the extremities of the parish, as to make those extremities very expensive to cultivate. The barns and other buildings are near them; these are on a scale, regulated by the nature of the climate, much more expensive to construct than is found to be necessary in our more equable country. At present the lands, divided to each occupier in scattered fragments over the whole common fields, receive crops according to their vicinity to the village, and that part appropriated to wheat, and which is manured, is generally near to it. If those lands were parcelled out in separate farms, some allotments must be at a great distance from the village. The shares in such situations might be, and in justice should be, comparatively larger. The expense of carrying manure, and of bringing the produce to them, would make the houses and erections in the villages nuisances and incumbrances on the land, rather than beneficial property. They must be destroyed, and new buildings constructed, before much of the land could be beneficially cultivated. The cost of the buildings on good estates, in the parts of the continent we are considering, is generally estimated to be one-third the value of the whole property, or one-half the value of the mere soil. The taking down old buildings, and removing the materials to distant spots, and there constructing new, would bear the same, or very nearly the same proportion. To this expenditure must be added, the cost of enclosing and putting up gates, and of making by-roads to the several allotments. These expenses would probably amount to half as much as that of the houses, barns, stables, cow-stalls, sheep-houses, and cart-lodges. Thus an expenditure of three-fourths the value of the land must be provided for, before any part of the process of what is properly called cultivation can commence. Besides this, beneficial husbandry would require additional live stock, to consume such part of the future produce as, to induce good crops, would require to be converted into dung.

In the countries under review, the little surplus capital that has been accumulated belongs either to public or charitable institutions, such as corporate bodies, churches, hospitals, and schools, or to widows and orphan families, who subsist on the interest derived from them. The wants of the several governments on the continent, created by the eventual and distressing period of long and expensive wars, are found quite sufficient to absorb the whole of such capitals, and leave no part of great extent disposable for fertilising the soil.

The monied men in the commercial cities who have acquired

wealth by operations on the exchanges, and by negotiating loans, though, to their subsequent regret, they have occasionally lent large sums on mortgages, are more feelingly alive to every symptom that even distantly threatens hostilities, than those who have been personally partakers of their actual inflictions, and know too well the difference between the interest produced by land and by funds, not to be wary in their modes of investment, and especially not to place capital in circumstances which shall make the removal of it to countries of greater security an affair of delay or difficulty.

If a view be taken of our own country, and directed back two centuries, when our condition in some respects resembled that of the existing state of the greater part of the continent, we shall observe how very slow was the progress made in the improvement of the soil, even during that long period of internal tranquillity which fills up the interval from the accession of the Tudors to the civil wars in the reign of Charles I.

The pillage of the ecclesiastical bodies changed the holders of the lands, but seems neither to have improved nor deteriorated the mode of cultivation, or to have affected its productiveness in any observable degree.

In the period that has followed since the Revolution, when greater security was given to property as well as to freedom, though the progress of improvement has been gradual, its pace has been far from rapid, and much remains yet to be done before the whole land of this island will have attained half of the fertility of which it is susceptible.

There seems no reason to imagine that the progress of improvement in the eastern division of Europe should be accelerated beyond the pace at which we have travelled. There are obvious circumstances in their condition that would rather favor the expectation of a more slow than of a more rapid progress. Without, however, entering into that topic, we may venture to anticipate, that if their present unexampled rate of increase in population should continue, and if with it the indulgence in more generous kinds of sustenance be extended, when they shall have arrived at our present condition, they will have no more surplus raw produce to dispose of than we have at the present time.

Another description of country must not be totally overlooked in this review of the probability of a future great increase of surplus corn.

Though not a large, a very productive part of Europe is in a state of high fertility—such as a great part of the kingdom of the Netherlands presents. Such lands, whether originally fertile, or brought into their actual state of fertility from the most sterile condition, by persevering labor through a succession of ages, are for the most part now cultivated by the manual industry of the people who inhabit them. These have increased, and are still increasing with great rapidity; so that productive as their fields are when sown with corn, they do not yield quite sufficient grain for the consumption of the po-

pulation. Whatever excess of produce is yielded does not present itself in the form of corn; but assumes a shape more compendious, and on account of the proportion which its bulk bears to its value, far better adapted to the purpose of foreign consumption. Though the whole kingdom of the Netherlands exports much grain, it is merely a transit trade of speculation, in the course of which more is imported than exported. The produce of that rich country, as far as regards food, creates a surplus in the shape of butter, of cheese, and of cured flesh, like the countries of Holstein and Mecklenburg. For these, a large field on which to operate is open, as not only can they be carried to Spain, Portugal, and the shores of the Mediterranean, but even to the East and the West Indies, with little expense of conveyance, and no hazard of injury by the voyage. The other parts of the produce of the land, which are the subjects of the foreign commerce of the kingdom, such as flax, rape, and linseed, seed oil, and Geneva, are more beneficial and more regularly so to the producers, than commodities so uncertain both in their growth and their sale price as the several kinds of grain.

Although in every part of the continent which I have visited within the last nine or ten years, marks of improvement in cultivation, and of increase in production, may be traced, yet the progress cannot be easily or accurately defined. In some states, and in some districts of states, the pace at which cultivation has advanced is very striking; in others, and those the far larger portion, its pace has been languid, and in several is scarcely perceptible. The same observation may be extended to those objects which naturally mark an advancing state of prosperity; the houses, furniture, utensils, cattle, roads, fences, have all been in a state of improvement; but it is difficult to measure them by any determinate scale. Each observer will give them a coloring from his own temper or habit of mind, as it may be habitually or occasionally gloomy or cheerful. The practice of forming general views from too small a number of data, the commonest cause of erroneous opinions, will have an influence on every traveller; and that influence will often require the aid of subsequent observations, and some degree of resolution, to overcome the first hasty impressions.

With respect to the consumers of the productions of the soil, the case is at present materially different. It is a subject susceptible of the greatest accuracy; and almost all the governments of Europe have of late taken steps, of different degrees of effectiveness, to ascertain the growth of the population of their respective dominions. A brief survey of that increase bears sufficiently on the general question of the proportion between the production of food and the consumers of it, to warrant the introduction of the topic into this report.

The accounts of the population of Russia, which are the most to be relied on, comprehend only a part, though the greatest part, of the inhabitants of that extended empire. The Synod of the orthodox Greek Church are in the practice of publishing each year the number of marriages, births and deaths in the year preceding. The last of

these lists, for the year 1826, has just come to my hands, and a comparison of it with those of a preceding period, not going back beyond the time when the empire had attained to its present extended limits, will give a view of the rate of increase that has been going on.

Year.	Marriages.	Births.	Deaths.	Increase.
1820 - - - - -	317,805	1,570,399	917,680	652,719
1826 - - - - -	384,787	1,645,023	1,194,637	450,386

It is difficult to account for the lesser increase in 1826 than in 1820, unless it be attributed to the great difference in fertility between the respective years. The years 1819 and 1820 were highly productive in the east of Europe, that of 1825 rather less so, and that of 1826 was, in all the sandy districts, from the great drought which prevailed, very deficient.

To whatever cause the difference may be attributed between the two years, it may be fair to take the average of those two years as the standard of annual increase. This will give us the excess of births over deaths, 551,552 souls. This comprehends only the increase in the greater religious sect over whom the Synod presides. When the whole population, in 1806, amounted to 41,252,000 persons, the excess of births over deaths, as published by the Synod, was 542,701. Since that year great additions have been made to the empire, but they have consisted of countries whose inhabitants did not profess the orthodox Greek religion, and are therefore not noticed in the annual reports of the Synod. Since that period, Finland, whose inhabitants are Lutherans; Bialystock, where they are either Catholics or heterodox Greeks; Caucasus provinces, where the majority are Mahomedans and Jews; and Poland, where they are mostly Catholics and Jews, have been added to the empire. The proportion which those of the dissident sects bear to the orthodox church has been commonly estimated as 2 to 7. At this rate, the annual increase of the population of Russia would appear to be at the rate of 697,758 persons. But as my design is merely to take a view of the increase of population in Europe, it is proper to exclude the inhabitants of the Asiatic provinces of Russia from this estimate. They are to those in the European provinces, according to the most recent documents that I have been able to inspect, in the proportion of 2 to 11. Thus, for the annual increase of the whole empire, of 697,758 persons, must be subtracted 2-11ths, or 98,673; thus leaving for the yearly augmentation, by the excess of births over deaths in European Russia, 598,085. Taking this from the period of the general peace, in 1815, to the present time, at 600,000 for 12 years, being a few months short of the real time, we may, without fear of any material error, assume the population of European Russia to have increased about 7,000,000. I must here remark, that even in Russia the increase seems to depend less on the increased number of births than on the more extended length of human life. In the

returns of the Synod, the deaths of persons above 100 years old appear to have been, in the year 1806, 293; 1810, 350; 1816, 689; 1820, 807; 1826, 1054.

The most extraordinary instance of increase in population that is to be seen in any old settled country, or that has been even actually recorded in past periods, is that exhibited in the dominions of the King of Prussia. It would hardly be credible, without such clear accounts as allow no room for hesitation, when emanating from a government whose systematic order, and whose accuracy in its statistical communications is not equalled by any other in Europe. By the official papers it appears, that in the 10 years from 1817 to 1827, the increase amounted to 1,849,561, at which rate the inhabitants would double themselves in little more than 36 years.

In the 12 years and a half which have passed since the conclusion of the peace, we may safely assume the increase to have been 2,300,000. The remarks of Mr. Hoffman, the chief of the Statistical Bureau in Berlin, show the manner in which the facts are collected, and the changes in the mode during the period under consideration. I am disposed to think the population has proceeded more rapidly than the means of employing and feeding it, notwithstanding the remark of Mr. Hoffman, "that the means of subsistence among the lower classes of the people have strikingly improved from year to year." This may be, and probably is accurate, as far as regards bread corn, by substituting wheat in the place of rye, or by their using rye bread instead of potatoes; but it does not seem to extend to a much larger consumption of animal food, or to the use of a greater number of horses in agriculture, or for other purposes. The account of those two kinds of live stock does not exhibit the same rate of increase as is shown in that of human beings. Thus, in ten years, whilst the increase of inhabitants from 1817 to 1826 has been at the rate of 25 per cent, that of neat cattle of all kinds has been from 4,013,210 to 4,355,587, or at the rate of $7\frac{1}{2}$ per cent, during a period of the same duration, viz. from 1816 to 1825. In the same period the horses and colts have increased from 1,244,651 to 1,402,348, or at the rate of about $12\frac{1}{2}$ per cent.

Population is certainly at the present time making more rapid advances in the northern kingdoms of Sweden, Denmark, and Norway, than at any former period. I have no precise data respecting the increase in Sweden, beyond a short account extracted from the *Revue Encyclopedique* for March 1825, which shows that the excess of births above deaths in 1823 had been 42,205. I know that a general opinion is entertained, both in Sweden and Norway, that the increase is proceeding at too rapid a pace for either the employment that can be given or the sustenance that is annually produced in those countries. The increase in Denmark Proper has been already noticed, and it may be incorrect to state the annual increase of those three countries at the same average. Whilst Denmark has increased at the rate of two per cent, Sweden and Norway may be estimated at two-thirds of that proportion. Assuming this estimate, the in-

crease in Denmark being taken at 20,000, and that of Sweden and Norway at 40,000, for each year from the peace of 1815 to the end of 1827, the increase will have been 720,000. The other dominions of Denmark will be viewed as a part of Germany.

There is some difficulty in determining the increase of the population in the dominions of Austria, arising from the different periods when the number of inhabitants was ascertained in the several provinces. Thus, in the archduchy of Austria, in the provinces on the Ens and the Steyermarck, the census is dated from the year 1815; in Illyria, from 1818; in the Tyrol, from 1806; in Galicia and Moravia, from 1818; in Hungary, from 1794; in Siebenburgen, from 1794; in the military frontier, from 1815; in Temeswar, from 1814; and in the kingdom of Venetian Lombardy, from 1815. The aggregate number taken from these returns, as enumerated by Baron Liechtenstern, in his *Vollständiger Umriss der Statistik des Österreichischen Kaiserstaats*, published in 1820, amounted to 29,699,724 individuals. According to the several local returns, as published by the Geographical Board at Vienna, in 1822, edited by Colonel Fallon, and formed in the preceding year, the rate of the increase of population appears to be as follows:—

In Hungary and Siebenburgen, 1 45-100ths annually.

In Austria Proper, the Steyermarck, and Siebenburgen, 2 35-100ths.

Bohemia, Galicia, Illyria, and Moravia, 2 32-100ths.

Dalmatia, Tyrol, and Venetian Lombardy, 2 12-100ths.

This statement would give as a result, an increase, in 12 years, on the population of 1815, calculated at 27,000,000, of more than 27 per cent, or in round numbers near 7,000,000. Extraordinary as this vast increase appears, it still does not exceed that proved to have taken place in Prussia by the accurate accounts of that country. It is confirmed by the only authorities I have been able to consult: thus Blumenbach, from the returns of 1815 and 1817, calculates the number of inhabitants in the latter year at 28,112,868; Liechtenstern, in his *Handbuch der Neuesten Geographic des Kaiserstaats*, by a different mode, in the same year makes them to be 27,857,530: 255,338 less. The latter, in 1820, states them at 29,699,724. Colonel Fallon, in 1822, shows the whole number of inhabitants to have been in the preceding year 33,006,849. Thus these different authorities agree up to the year 1821 in a rate of increase which, if continued to 1828, would make that increase to be more than 7,000,000.

Those parts of Germany which are comprehended in neither the Austrian empire nor the Prussian kingdom, contained at the time of the Congress of Vienna a population of 13,600,000. I have been able to procure from Hanover alone the exact returns for a series of years from each province, and they show an increase in ten years at the rate of 12 per cent, or somewhat more than 14 per cent in the 12 years since the peace. By an official account from the kingdom of Bavaria, it appears that the population in 1818 consisted of

789,191 families, which, multiplied by four and a half, gave the number of individuals 3,552,359. As this result is not in its nature very accurate, it is only of use as showing the possible truth of two subsequent official statements. In 1821, the inhabitants were found to be 3,743,330; and in 1826, to be 4,301,004. I have also an official account from the Grand-duchy of Baden, which gives the population in 1822 as 1,090,910 persons, and in 1826 as 1,145,357, showing an increase at the rate of 1 48-100th annually. Whilst I give credit to the account from Baden, I must suspend my belief in that from Bavaria, until I see more clearly the way in which the data are collected. I have no accounts from Saxony, from Wirtemberg, from Hesse-Cassel, from Hesse-Darmstadt, from Nassau, or the smaller sovereignties. From the best books describing each of these states, and from conversation with several of the professors and other intelligent men who have devoted their attention to such subjects, I am induced to rate the increase of population much below that of Austria and of Prussia, and nearer that of Baden: taking it at the rate of $17\frac{1}{2}$ per cent in the twelve years since the peace, the increase in the portions of Germany under consideration may be assumed at 2,400,000 at the present time.

Switzerland utters more complaints of over-population than are to be heard in any other parts of Europe. Though the emigrations from thence are more numerous than from most of the other divisions of the old continent, yet they are not found to prevent the population from pressing with increased force against the means of subsistence. By census taken in 1821, the inhabitants were found to be 1,783,231, and in 1827 they were 2,037,030, thus showing an increase in six years of 253,799. The whole augmentation during the twelve years of peace may therefore be safely estimated at 500,000.

The kingdom of the Netherlands furnishes the most correct and most detailed account of the state of its population of any country in Europe. A census is taken every five years; and at the end of each intermediate year the births are added and the deaths subtracted, which is adjusted by the enumerations of the fifth years. One process serves to verify the other; and it is seen, by their very near approximation, that only insignificant errors are made in either. By an account printed for the information of the legislature, it is seen that the population, which, 1st January, 1815, was 5,424,502, had advanced on the 1st January, 1825, to 6,013,478; and adding, for the three years to the 1st January, 1828, at the same rate, the increase since the peace is shown to be 760,000.

The state of the population of France, according to the statement of Baron Charles Dupin, in his recent work, entitled *Forces Productives et Commerciales de la France*, shows that the increase in that kingdom has been slower than in the other parts of Europe which he has noticed. Giving to his statement the full credence to which it is entitled, that France contained 31,000,000 of inhabitants, who increase annually at the rate of 6536 for each million, it would

show an annual augmentation of 200,000, or, in the twelve years since the peace, of 2,400,000 persons.

The population of Great Britain, from data afforded by the three decennial enumerations of 1801, 1811, and 1821, may be safely taken to have increased at the rate of 200,000 in each year from 1815 to 1827, or, in the period since the peace, to the amount of 2,400,000. In 1821, the population of Ireland amounted to 6,800,000, according to the enumeration made by government. The reports which have been circulated represent the increase to be unusually rapid; it is difficult to know what degree of credit they are entitled to receive. We cannot, however, very greatly err, in estimating that increase to be equal to the proportion which has been ascertained in Great Britain; the one island in 1821 containing 14,391,631 inhabitants, and the other 6,801,827. We may thus assume the increase of the United Kingdom, since the year 1815, to be 3,500,000.

The estimate of the increase of inhabitants in northern Italy is comprehended in that of the dominions of Austria, as far as the territories of that empire extend in it. In the dominions of the King of Naples, I take for my guide Baron Charles Dupin, having at hand no Italian documents of equal authority on that subject. According to the official statements of 1817, the whole population at that period amounted to 6,828,558. Dupin gives for the annual rate of increase 11,111 for each million, which would thus amount to 75,850 yearly, or, for the 12 years since 1815, to 900,000.

The middle of Italy, comprehending Sardinia, the Papedom, Tuscany, Modena, Parma, Lucca, and the islands, contained in 1817, 8,859,000 inhabitants. If the rate of increase in those states has corresponded with that of Naples, and there can be no reason to deem it slower, they must have received an augmentation of 1,200,000.

I have no recent work on Spain relating to the state of its population, nor indeed any later than that of Ancillon, published in 1809, up to which time the population is shown by that writer to have been increasing. I remember, during the existence of the constitution, in the debates, as reported in *El Diario de las Cortes*, that vague allusions were made to the rapid increase in numbers of the people. It is not possible to regard reports which may have been mere oratorical and temporary assumptions of the individuals who uttered them. It is not however improbable, that some increase has been going on in spite of the internal disastrous occurrences in that country. In Portugal, according to Balbi, in his *Essai Statistique sur le Royaume de Portugal et d'Algarve*, published in 1822, a progress appears up to that period. The lists are certainly very imperfect. It appears, that in the years 1815, 16, 17, 18, and 19, the excess of births above deaths, and the proportion of both to the whole number of the people, is such as to show a great but uncertain rate of increase.

We know nothing of the population of Turkey; and though its European territory is commonly stated to contain 7,000,000 of inhabitants, no proof of the accuracy of that statement has come under

my observation. I do not however deem it any improbable estimation, considering what we do know of Portugal, and that these three countries contained 20,000,000 of inhabitants, to presume that they have, in 15 years, increased 5 per cent, or 1,000,000.

From the statement here exhibited, it appears that the inhabitants of Europe have, within the period that has elapsed since the general peace, been augmented by the number of 28,000,000 or 29,000,000. Thus, there have been added to the previous consumers of the products of the soil, at least double the number of persons that were existing in the island of Great Britain in the year 1821. It hence deserves the most serious scrutiny to ascertain, if, within the term under consideration, the whole soil of Europe has received such an augmentation of productive force, as to enable it to supply double the quantity of food which Great Britain afforded in the year 1821. If it should appear on farther investigation, that whilst the consumers have been rapidly increasing, the reserved store of food has been lessened, and is likely to be kept lower than at former periods, and to be but barely sufficient, with seasons of average productiveness, to support the whole of the inhabitants, it will be impossible not to feel some degree of anxiety for the fate of the lower classes in every country, who always become the victims of scarcity long before those of the higher classes know any thing of such scarcity, except by an advance in the price of bread. To them corn is the most insignificant article of their expenditure, whilst to the poor it amounts to much the largest portion of the cost of their existence. If the occurrence of a year of productiveness below the average should present itself, with the present diminished stock of corn, or if the next harvest should be delayed beyond the usual time, the sufferings of the more indigent classes will be attended with a degree of intensity, which no friend to humanity can view in anticipation without feeling a deep interest.

I have ventured to submit this statement of the growth of population in Europe collectively to your lordships' consideration, rather from its connexion with the trade in corn, than from any apprehension that it has been overlooked in the extensive views your lordships are accustomed to take of the various topics which come under your attention, or from any fear that, with the fact of this great increase of consumers before them, the legislators of any country will enact any laws whose tendency may be to check production.

I am confident, that with respect to food it must be the object of your lordships and the legislature, first, that a sufficient supply of corn should always be provided; and, secondly, that the prices of it should be so fairly, and as far as possible so steadily fixed, as, whilst the producer draws an equitable profit, the consumer shall pay for it only a remunerating price.

I have deferred, till the close of this report, some statements respecting the nature of the corn trade in the Netherlands, in the expectation of receiving from that country documents which would have furnished me with authority to write more decidedly than I venture

to do without producing the evidence. From some causes, for which I am unable to account, I have been disappointed in my expectations beyond the time I had reckoned on; and if those accounts should hereafter reach me, I shall take the liberty to submit them to your lordships in a short supplementary report.

I obtained, indeed, at the Hague, an account which, though not strictly official, is entitled to some degree of confidence. This shows, that the quantity of each description of grain, except oats, which the supply of the United Kingdom requires, has exceeded its own production, during the eight years from 1815 to 1822, both years inclusive.

The imports and exports of the whole period are as follow :

Kind of Grain.	Quarters Imported.	Quarters Exported.	Excess of Imports.	Excess of Exports.	Aggregate Excess of all Imports over Exports
Wheat.....	1,667,071	1,622,236	44,735	..	..
Rye.....	3,134,867	444,094	2,690,773	..	..
Barley.....	1,187,651	480,418	707,333	..	..
Oats.....	423,137	1,122,631	..	699,394	..
Buck wheat.....	60,826	35,887	24,939	..	..
Winter barley.....	21,630	2256	19,374	..	..
In eight years	6,495,182	3,707,422	3,487,154	699,394	2,787,760
Average quantity during the eight years.....	811,885	463,427	435,889	..	348,442

Until a late period, the speculative trade in corn, in Amsterdam, Rotterdam, and Antwerp, was very extensive, and employed large portions of capital. When the calamitous harvest of 1816 occurred, the merchants there had their storehouses furnished with such stocks of grain as were suitable to their usual extent of trade, when the prices were low. Hence, in the years 1816, 1817, and 1818, they were enabled to export the large quantity of 1,226,441 quarters of wheat, thus exceeding in those three years the amount of their imports by 845,407 quarters.

Since that period, the corn trade of the Netherlands has taken the same course as in the British dominions, and on the continent of Europe. Much of the capital has been lost to the possessors of it; and of what was saved, a great portion has been applied to other commercial objects, or to speculations in funds and exchanges. The trade in corn now, except as regards the home demand, including that required for distillation, which must always be considerable, is become of very little importance as a national object; and the stocks on hand have been reduced there, as well as elsewhere, to very trifling quantities.

As I made some inquiries respecting the storing of corn at Antwerp, Rotterdam, and Amsterdam, I beg to submit to your lord-

ships a view of the expenses attending on it in those places, where alone any can be securely and cheaply deposited, to wait for such an opening of our ports as may make the transmission to this country a beneficial operation. At Antwerp, the following statement was furnished by two eminent merchants, extracted from their books, in which the two exactly agreed:—

“Receiving and storing 500 hectolitres of wheat, or other grain, $2\frac{1}{2}$ cents per month: for turning over, two days in each month, two guilders.” As 500 hectolitres are equal (at ten hectolitres to $28\frac{1}{2}$ imperial quarters) to 176 quarters, the cost is 13 guilders 25 cents per month. The guilder being of the value of 20*d.* at the current exchange of 12, would make the cost of storing and turning 189-176*d.*, or, as near as can be stated in money, 1*d.* per month for each quarter of corn.

At Rotterdam and Amsterdam, the expenses of warehouse rent and turning varies according to circumstances and situation, from 2*d.* to $2\frac{1}{2}$ *d.* per month. The expense of lighterage and metage amounts to 60 guilders, or 5*l.* on 500 quarters, or a small fraction more than 2*d.* per quarter.

As far as regards the expense of storing, it must be much more advantageous to a speculator to keep his corn in Antwerp or Rotterdam than in England, and especially than in London.

By an account of real sales of 410 quarters of oats, as rendered by one of the first mercantile houses in London to the shipper at Amsterdam, of the correctness of which I have the fullest proof, it appears that the metage out of the ship was $6\frac{3}{4}$ *d.* per quarter; that the lighterage and landing was $7\frac{1}{2}$ *d.*, and the metage and portorage on the delivery from the warehouse was 6*d.* The granary rent and insurance against fire for 50 weeks, with the expense of turning, is charged 63*l.* 10*s.* 6*d.*, being 25*s.* per week, or at the rate of 3*d.* per month, or double that charged at Antwerp.

By this account of sales, it appears that though the cargo of oats was sold at 19*s.* per quarter, yet the duty of 2*s.* per quarter, the metages, storing, porterages, freight, primage, landing, brokerage, loss in measure, interest on advances, with commission and other charges, so reduced the amount of the sales, that the shipper at Amsterdam was only credited for his oats at a rate a fraction less than 6*s.* the quarter.

This specimen of the expenses of consignments of corn to London, on the speculation of waiting till our ports are open, may serve, with others of a similar kind, which several foreign merchants have shown to me, to account for the enormous losses in capital which those engaged in that kind of trade have sustained of late years.

WILLIAM JACOB.

*Corn Department, Board of Trade,
March 16.*

A LETTER
TO THE
PRIME MINISTER
ON THE DEPLORABLE CONDITION
OF THE
HELPLESS POOR IN IRELAND,
WITH A PLAN OF RELIEF, AS AT PRESENT PARTLY IN OPERATION
IN SEVERAL DISTRICTS OF THE PROVINCE OF ULSTER.
BY
A MEMBER OF A PAROCHIAL POOR RELIEF COMMITTEE.

“The state of moral degradation of the Irish is increasing daily—Is it not?”
—“It is undoubtedly.”

“Does the condition of the people depend at all on the government under which they live?”—“Very much on the government—on the *strict and equal administration of justice*—on the *PERFECT SECURITY* of property—on *CIVIL, RELIGIOUS, and POLITICAL LIBERTY*.”—*Malthus' Evidence, Emigration Report, 1827.*

LONDON:—1828.

“Any thing calculated to relieve the helpless poor in Ireland, is deserving of consideration from all persons interested in the welfare of that part of his Majesty's dominions.”—*LORD GODERICH.*

“Not zealous for needless opinions; not zealous for idolatry and superstitions; not zealous for parties and factions in the state; but zealous of good works. They are the proper objects of our zeal, as having an immediate respect to the glory of God, the ultimate end of all our actions.”—*BISHOP BEVERIDGE.*

THE unexampled state of the most depressed class of paupers in Ireland, does not appear to have been considered with that attention which it deserves; because, perhaps, the catalogue of their privations has invariably exhibited the want of an advocate to represent their sufferings, and to plead successfully in their behalf. As I have taken an active interest in the concerns of the poor, with a view to their relief, permit me to implore your consideration of their claims—a subject on which I will venture to address you, with unfeigned hopes that, under your auspices, something may soon be done to rescue from the misery of their condition the most forlorn and destitute of mankind—the helpless poor of Ireland!

Having been much in foreign parts, the manners and customs of various nations have fallen under my observation; but I have

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seldom or never witnessed, in any country, such calamitous examples of human wretchedness, as are of frequent occurrence among the houseless and friendless poor of that part of his Majesty's dominions, where the corruptions of Christianity, the failure, in a great measure, of the staple manufacture, the stagnation of trade, and the debasing influence of penal laws,¹ depress the population, increase pauperism, and are plainly the causes which, in their practical operation, prove most prejudicial to the interests of Ireland, and to the general welfare of Great Britain.

Justice being a constant and perpetual will to give to every one their due, and mankind being enjoined by the law of God and nature to relieve and support, in life, the accidental inheritors of unbefriended impotency, or, in other terms, the helpless poor—is it consistent with this principle, with Christian precepts, that paupers, in the following enumeration, should be neglected, as they are in Ireland, and literally cast out?

The lunatic and idiots—the paralytic—the blind—the maimed,

¹ It is self-evident that the grand object of the framers of those laws was to check the growth of the Roman Catholic religion in Ireland, and to extend the principles of the reformed churches to the bulk of the population—but it is equally obvious that, in their mistaken zeal for the truth, they adhered not to the genuine doctrines of the gospel. They endeavored to accomplish good by unjust means. They were willing to do evil that good might ultimately come. And what has been the result? a conclusion diametrically opposite to their designs. Behold the prodigious increase of the Roman Catholic population—very deficient in knowledge, arts, and sciences—in a great measure semi-barbarous, prone to indolence and superstition, and to multiply rapidly through improvident marriages, and by means of the facility with which a mere vegetable subsistence can be procured; all which may be traced to errors in legislation more subversive of good order, than to any of the religious dogmas which persecution was intended to eradicate.

It was erroneously conceived, that by the imposition of civil disabilities, divine truth would have illuminated the understanding, purified the religion, and subverted the ancient faith of the people. The fact is, the culture of the mind was neglected and overlooked—legal authority did not interfere to prevent the light of revelation being obscured; the knowledge of the truth was not permitted to make the people free (in one sense), and continue they will in bondage until that knowledge be diffused.

Every man of common sense must own, that the emancipation most to be desired for the Irish people is that of the mind; when this takes place, the corruptions of Christianity will vanish, and truth will prevail—but how is such a desirable object to be attained? Certainly not by penal statutes and the rigor of persecution, but by the advancement of learning, by the improvement and education of the rising generation, and by the unqualified removal of every obstacle to the acquisition of knowledge. Let every statute which is offensive to true and loyal subjects, and moral men, because of their religious opinions, be repealed; and if oppressive measures be essential to the safety of the Established Church, let them be directed against all who are really the enemies of Christianity.

who are unable to work for their bread—the aged and infirm, who really from age and infirmity are incapable of labor, in any way, for their own maintenance. Is it right that such unhappy beings should be suffered to become the victims of unavoidable misfortune, more especially those, whom, through bitter calamity and extreme poverty, the worst of maladies frequently overtakes? Is it right that objects so pitiable should be abandoned to shift for themselves, without places of refuge, or the means of cure and subsistence; being actually allowed to wander as mendicants, or to be borne about in wooden-boxes through the land, half starved and half clad, to the disgrace of civilised society; and in a Christian community too, where the law has established the reformed religion?

Under existing circumstances in Ireland, it cannot be denied, that lunatics are permitted to roam at large! Idiots unprotected and almost naked, present themselves to the gaze of the public! The paralytic, desolate and dejected, traverse the country—divested of every hope—in despair of any consolation under their afflictions—they exhibit, in their woe-worn aspect and disabled persons, the affecting spectacle of the awful visitation of God, and the unpardonable neglect of their fellow-men! The blind beg their scanty morsel, led from house to house by an associate dog, or kindly individual, who commiserates their dark and comfortless situation—how dreary even with fortune's most auspicious recompense for loss of sight! The maimed are carried through streets and by-ways—frequenting markets and fairs to obtain alms from the multitude—they also beg through the country, and lodge themselves amongst the peasantry by night; and though, like Lazarus, covered with sores, they seldom lay themselves at the rich man's gate, when the clouds of evening are gathering, as they are sternly refused a nightly lodging even in the out-houses of the affluent.

The aged and infirm are borne about on hand-barrows, sometimes protected from the inclemency of the weather, sometimes not. They are entirely dependent on the sympathy of their abler fellow poor for locomotion, who anticipate, in their turn, similar acts of charity, when the incapacities of old age and the privations of poverty overwhelm them; and they become heirs of

¹ The manner in which unfortunate cripples are conveyed from house to house for alms.—Collections are made in the churches, every Sunday, by sending round what are termed poor-boxes, under scriptural admonition; but the contents of these are inadequate to the weekly maintenance of such helpless beings, exclusively of many other claimants justly entitled to parochial relief; and, in fact, there is too often "a beggarly account of empty boxes."

inevitable adversity—driven out on the wide world, and ejected from their humble habitations, which barely afforded shelter from the wintry blast in periods of their greatest prosperity. To these unhappy beings, the repose which cattle obtain on beds of clean straw would be a comfort; for it often happens, they cannot procure even that article to lie on, nor a blanket to cover them, having no permanent settlement, and no legal parochial claim to any relief. The stable would be to them as a palace to others—horse-corn bread a luxury; in fact, they are worse provided for than beasts that perish!

All this, however, is but a faint description of the forlorn state of this suffering class of poor. They manage matters better in France, with reference to provision for the helpless; but there, indeed, the mass of the population is not only better clad and provided, but incomparably more orderly and civilised—where there are religious differences without animosity, and where the great bulk of the inhabitants are comfortable and happy. And that this state of things is conducive to good morals, may be taken for granted by a reference to the comparative view of crime in France and Great Britain, during the same period.

The population of the former is upwards of 30 millions; of England alone, not 15 millions.—Number of criminals condemned to various punishments in 1826, by official returns, in France 4848—In England 11,095. More than twice the amount of crime in Protestant England, than to twice the population of Catholic France. Hence it may be inferred, that the moral influence of Roman Catholic Christianity in one country is of more practical use in restraining evil, than that of the Protestant church in another. Whether it is so in Ireland, I know not.

A writer in the *Morning Chronicle*, under the signature of “A Practical Observer,” says—“I know that it is a prevailing habit with some ‘noble lords’ and ‘honorable members’ to represent

¹ PROVISION FOR THE HELPLESS IN FRANCE.—“Not only are the most untoward defects of nature made to give way before the wisdom of national provisions, for turning otherwise helpless objects into useful members of society; but by the fruits of their industry, they are soon enabled to reimburse their instructors for the trouble and cost of their education and maintenance. The lame, the deformed, the dumb, the blind, are all taught trades, in which they frequently arrive at a greater pitch of perfection than many of those who have no natural defects to struggle with. This conversion of the proceeds of industry towards defraying the cost of education I found to be a very prevailing principle in their public schools, the surplus of which is always appropriated to public charities. ‘England,’ says a modern observer, ‘is certainly famous for charities to the helpless; but sadly neglects the means of preparing people to help themselves.’”—*Rambling Notes by Sir A. B. Faulkner.*

that there is a great disparity in moral and peaceable conduct, and general obedience to the laws, between Protestant and Catholic districts in Ireland, and to insist that the contrast is triumphantly favorable to the Protestant. Any person attending to the debates in Parliament must have observed that this contrast is uniformly set up as an argument to prove the immoral, and indeed seditious, doctrines inculcated by the Catholic clergy into their flocks.

Fortunately we are enabled, by official papers, to set this matter at rest. I propose to do so in the most simple manner, by selecting ten Irish counties where Protestantism is more extended, and ten Catholic counties, and contrasting the state and proportion of criminal offences in each class, according to the Parliamentary Returns of the present year.

Ten Principal Protestant Counties in the different Provinces.

Population in 1821.

Antrim, Armagh, Cavan, Fermanagh, Leitrim, Longford,	
Louth, Monaghan, Sligo, Westmeath	1,558,132
Number of commitments in 1826	1357
Proportion of commitments to the population	Average 1 of 357

Ten Principal Catholic Counties.

Population in 1821.

Carlow, Clare, Cork, Galway, Kerry, Limerick, Mayo,	
Tipperary, Waterford Wexford	2,868,249
Number of commitments in 1826	4546
Proportion of commitments to the population	Average 1 of 628

We find, then, that the Catholic districts are not the greatest offenders; nay, on the contrary, the proportion of *commitments* in the Catholic counties is but little more than one-half of the proportion in the Protestant counties. I have taken the trouble of ascertaining, on similar official authority, the number of *convictions* in those counties, for the same period; and I find them, in the Protestant counties, to amount to 2185; and in the Catholic counties to 2178. Thus, then, the ten Catholic counties, containing 2,868,249 persons, present a smaller number of convictions than the ten Protestant counties, containing only 1,558,132 persons, or little more than half the amount of the Catholic population; making in the Protestant counties, a proportion of one convict out of every 713 persons; and in the Catholic counties, only one out of 1317.

Among innumerable evils, the system of licensed mendicity in Ireland appears to be the worst. It is subversive of good order, and the fruitful parent of crime. Under the mask of penury and

distress, the sturdy beggar is found plying his demoralizing trade, and, by habitual fraud, continually imposing on the humane. Much of the bounty of the charitable is thus diverted from its legitimate channel, and serves to maintain a worthless body of vagrants, who will be industrious only in wandering from house to house in a degrading course of alms-seeking, as the pest of society at large. It is incontrovertible, that the customary practices of mendicity are to be attributed to the want of judicious regulations, and a better method of administering to the necessities of the poor in parishes; to facilitate which, the intromission of legal authority for enforcing the decent maintenance of the parochial poor in their respective districts, seems now absolutely indispensable. And it is justly presumed, that a change of system may, with incalculable advantage, take place, leaving genuine charity untouched, and more productive of good, in its immediate operation, than ever before. Anxiously solicitous of your attention to a subject which is acknowledged to be deserving of consideration, I sincerely trust this humble appeal, in behalf of suffering humanity, may not prove altogether ineffectual.

I do not arrogantly presume, being incompetent, to communicate much that may be worthy the notice of an illustrious statesman, and perhaps very unfit, as an obscure individual, to address the first Minister of the Crown; nevertheless I shall fearlessly go on, with firm reliance on the implored guidance of the wisdom which is not of this world, zealously endeavoring, by every practicable contrivance, to lessen, in my own sphere at least, the sum of human misery. It is satisfactory to be enabled to bear testimony to the salutary effects produced by efforts of this nature; for I rejoice to state, that the introduction of an improved relief system has been highly conducive to the happiness of numerous poor families, by affording comfort and succour to the distressed of a particular district. Christian motives impel us to extend, if possible, the same advantages to all. We are required to "*strive* to enter in at the strait gate; for many will *seek* to enter in, and shall not be able."

The general principle cannot be well objected to, that the inhabitants of every country are bound, by the law of God and nature, to provide for the impotent poor, really incapable, by any means, of maintaining themselves—concede this, and it is obvious no country is more in want of its application than Ireland. If it be taken for granted, that great distress prevails there amongst those who are in health and well able to work, but who cannot get any employment, how shall we conceive the full extent of

¹ St. Luke, xiii. 24.

misery—the sharp anguish of misfortune, experienced by many poor sufferers, who, from destitution and physical calamity, are compelled to seek their means of subsistence by mendicancy in the manner already described! Could not a plan be devised and established, having for its object the permanent relief and decent maintenance of helpless paupers? Could not parishes be empowered by Act of Parliament to assess themselves voluntarily, with proper limitations, for the care and protection of their own poor? Could not a remedy of this kind be adopted, without danger of introducing the British system of poor's-rates, by which evils of the magnitude alluded to might be, in a great measure, removed; and the misery alleviated which obtains at present, from a want of well-organised charitable institutions, order and regularity in parishes—from neglect on the part of absent proprietors, and from a superabundant population, destitute of the advantages which are found, in most other countries, to spring from well requited industry, and its judicious application to natural resources?

Within the last half century, the population of Ireland has doubled itself,¹ but the resident gentry have not increased in the same proportion. Since the Union, at least, the number of absentees has increased very much; and it is doubtful yet, whether the advantages conferred on the island have compensated for the drain made on its resources by the men of property, who prefer a residence in other countries. In that circumstance, one reason is evident why the people are dissatisfied, the great majority impoverished, and the poorest class so shamefully neglected. Of those outcast individuals, many, as I have before remarked, wander through the country imploring alms at every gate, or merely sustain existence in scattered huts, the most abject abodes of human wretchedness—in most instances, neither wind-tight nor water-tight; not superior, perhaps not equal, to the wigwams of American savages, or the krails of South African Hottentots.

These unfortunate fellow-Christians, paralysed by poverty, are engaged in a perpetual struggle for a supply of the coarsest and cheapest species of food, by which mere animal existence may be supported. In periods of temporary scarcity, when deprived of every means of sustaining life by their own exertion, disease overtakes them, mendicancy becomes the last resource of these

¹ "The rate at which the population increased, from 1792 to 1821, was such as would double itself in about 40 years. In other European countries, the population has often increased for 10, 20, or 30 years, at a very rapid rate; but in Ireland, it increased for 125 years together, at a rate that would double itself in about 45 years."—*Malthus*.

hapless beings; and unless they fall, by chance, under notice of competent humanity, they pass on, through every stage of suffering, to the close of their earthly accounts.¹

There is not any provision in Ireland for extreme cases of distress, either parochial or otherwise, with the exception of a few county infirmaries and village dispensaries, founded on voluntary contribution; and by way of relief (posthumous, and too late) some legal vestry assessments for burying in coffins the remains of miserable paupers, who have perished of hunger, disease, and destitution!

Such lamentable occurrences, incidental to the condition of any class of human beings, fill one with pain and horror; they forcibly imply, that wherever scenes so revolting to humanity obtain, an amendment of that system, under which they have happened, ought to be enforced, which can only be effected any where by salutary laws to connect the poor with the rich, and to compel the latter, especially those who withdraw their persons and fortunes from their country, to consider the cause of the former, as being entitled, by every rule of duty, to their reasonable countenance and protection.

It has been justly remarked, that the poor in England are better provided for than in any other country of the same extent.—But where the most depressed class, as in Ireland, are suffered to languish in helpless misery, something must be radically wrong, and the strongest proof of this is, the fact that there never has been in

¹ In the southern districts, the condition of the people is not much improved since Dean Swift's time, who wrote of Ireland as follows:—

"I think I once was in Tipperary, which is like the rest of the whole kingdom—a bare face of nature, without houses or plantations—filthy cabins, miserable, tattered, half-starved creatures, scarce in human shape; one insolent, ignorant, oppressive 'squire, to be found in twenty miles' riding; a parish church to be found only in a summer day's journey, in comparison of which an English farmer's barn is a cathedral; a bog of fifteen miles round; every meadow a slough; and every hill a mixture of rock, heath, and marsh; and every male and female, from the farmer inclusive to the day-laborer, infallibly a thief, and consequently a beggar, which in this island are terms convertible. There is not an acre of land in Ireland turned to half its advantage; yet it is better improved than the people—and *all these evils are effects of English tyranny*; so your sons and grand-children will find to their sorrow."—*Vide Letter to Dean Bradeth, written about 70 years since.*

I have often witnessed, on entering the hovels of the peasantry, a whole family seated round a basket of potatoes, with nothing earthly besides for their subsistence, except a few grains of salt and water from the spring! In many instances, and at certain periods of the year before the harvest time, this frugal repast is denied these poor people—the pressure of poverty becomes so severe, they are compelled to beg from door to door through the country, and often one scanty meal of potatoes must suffice for the day!

Ireland a decent provision for the poor, which is a true test of civilisation. I shall, therefore, have the honor of submitting to your consideration, a simple plan for effecting an object so desirable in that country, and I shall endeavor to show that it may be done without the introduction of the British system of poor laws; without violating the principles of true charity to the poor; without destroying the kindly dispositions of human life, which is often the case when relief becomes entirely compulsory; without danger of the abuses which have crept into the administration of the poor laws in England; without despair of a moral certainty of doing very much good by improving the character and habits of the lower orders; and without any apprehension that "the introduction of a certain system of law with respect to the helpless poor, should harden the hearts of the Irish people, destroy their uniform kindness and sympathy for their fellow poor, or alter that fine portion of their national character."¹

I trust, with the blessing of God, it is possible to remove the reluctance to attempts at legislating on this subject, and to obviate the difficulties which appear to have arisen and spread, as it were, a mist before the eyes of enlightened legislators, rendering them hitherto unable to see their way distinctly, as to the mode of conferring a great benefit on society in that long oppressed portion of the British empire. I trust it is possible to make it appear, that what has been termed the misdirected charity of Ireland can be made to flow in a more regular, useful, and permanent channel than heretofore, by setting up a very simple machinery for the administration of bounty to the poor, "avoiding all the imperfections of the English system, conquering the difficulty of finding persons of sufficient integrity and honesty to regulate it, and preventing its being obstructed by abuse."

As the compulsory laws in England for relief of the poor have a twofold object, the one to provide labor and support for those who can work and cannot find employment, the other to afford maintenance and comfort to the impotent. With the former branch we have nothing to do, since it is found to be an erroneous practice to interfere with wages, and to hold out such incitements to an increase of pauperism, as it unavoidably causes.² But with

¹ Vide Debate in the House of Lords, 18th June, 1837.

² "Convinced as I am," says Brereton (a writer on the English Poor Laws), "that the justices of the peace have introduced the erroneous practice, and that the erroneous principle is, allowing them to practise at all in parish affairs, I cannot conceal an opinion, formed by patient inquiry, or suppress a conviction confirmed by experience. I shall close these few observations on the substitution of district for parochial officers of any kind, in any parish affairs, with a repetition of Mr. Vivian's remedy for the

regard to the latter, we are at issue with any individual, who will presume to maintain that, in the multiplied circumstances of life, the security of an adequate provision for the helpless poor, does not constitute one of the first of our duties, for the faithful performance of which we are awfully responsible—rigidly accountable, when time and fate shall determine—when we shall stand acquitted or condemned for eternity, by the irrevocable judgment of Him who has declared he will justify or condemn, according to our observance or neglect of the solemn precepts which enjoin the duty in question, as being done not only to our distressed neighbor, but as to himself.—“Verily I say unto you, inasmuch as ye have done it to the least of these my brethren, ye have done it unto me.”¹

The original law in England, respecting the poor, had been framed solely with this great design in view; but on the old stock so many errors have been grafted, as to render it fruitful of much mischief to the state.

Mr. Brereton observes—“Would we trace our national calamities

of the present system—‘Get rid of the sessions, and you will get rid of workhouses, at least of a great many in villages, and you will restore the ancient and happier system of supporting the poor by small pensions in their own habitations, or the habitations of their friends and relatives.’

“The House will find that all the witnesses concur in opinion, that the greatest practical improvement of the poor-rate system is involved in the discontinuance of relief to able-bodied paupers; and your Committee are of opinion, that such discontinuance will be rendered more practicable by the introduction of a system of regulated emigration, than by any other measure.”

On this subject, the questions numbered from 3252 to 3257, were put to Mr. Malthus:—

“If parochial assistance were rigidly and invariably limited to the support of the aged and infirm, or of children, and universally denied to able-bodied men who have no opportunity of working, do you think the existence of a well-regulated poor-rate under such restrictions would be prejudicial to the country?—Perhaps not; but it appears to be difficult always to restrict it in that way.

“Admitting, for the sake of the proposition, that poor’s-rates were judiciously administered under such limitations, are you of opinion that a poor’s-rate might not be inexpedient? At any rate it would be a great improvement, as compared with the present mode of administration.

“If a system of emigration could be adopted with benefit to the laborer emigrating, do you think that it might justify the enactment of a positive law, removing all claims on the part of an able-bodied pauper for assistance or for work, under circumstances of his being in a state of destitution? As I should say so independently of the question of emigration, I must say so still more strongly when coupled with the remedy proposed.

“Your Committee cannot express too strong an opinion against the idea of regulating, by legislation, the rate of wages, under any conceivable modification.”—*Vide Emigration Report, 1827.*

¹ St. Matthew, xxv. 40.

ties (for national calamities I call them), pauperism and crime, to their spring-head, the poisonous streams would infallibly guide us to the ultimate execution of the poor laws.¹

"There have been and are such difficulties in administering these laws, under any form, as render them fairly questionable. Statutes for parishes must indeed be as few as possible, and confined to well-defined objects in the preservation of order—the repairs of the common highways—and the *relief of unbefriended impotency*. Substitute them for morals or religion—the fear of God, or the love of man—and you disgrace the religion and character of the nation. Extend them to private business and the regulation of wages, and such parochial laws cannot fail to be mischievous and tyrannical.

"Under the present system in England, many honest persons who have hard means to live, are not only charged with the relief of the poor but with the ambition of the rich! The private hand of tax not only spares the public hand of alms, but sustains the partial hand of interest. Thus it happens that monies levied professedly for the relief of want and indigence, are funds for the encouragement of idle and worthless dependence, or of vanity, selfishness, and mistaken benevolence.

"Legislation invariably tends to suppress all voluntary, and especially parochial voluntary relief of distress, and therefore ought not to be tolerated, but on some *systematic* principle. It was the custom in Ireland, formerly, before a recent Act of Parliament interfered, for parishes to assess themselves; and sums were voted unanimously by Episcopalians, Catholics, and Presbyterians, for the relief of the poor.²

¹ In like manner, would we trace our national calamities in Ireland (for national calamities I call them), pauperism and crime, the poisonous streams would infallibly guide us to the ultimate execution of the penal laws. England, therefore, may be regarded as the original cause of those misfortunes. England, as bearing rule, should look to this, and to the state of moral degradation of the people in Ireland, ere the spring-tide of Irish pauperism overflow her fertile plains, and supplant, with hordes of able-bodied potato-fed Catholics, her highly-favored peasantry; for, if it be found expedient to withhold supplemental wages, hitherto paid out of the rates to able paupers, the English may at last experience the bad effects of refusing to do justice to Ireland.

² The following paragraph appeared in the *Dublin Evening Post* of 22nd September, 1827:—

PARISH OF LOUGHGILLY.—"Early in the summer that has just now passed, a number of benevolent individuals in this parish (Loughgilly), apprehensive of the difficulties that were like to ensue to the lower orders of the people from the want of employment and the consequent scarcity of money, exerted themselves in creating a fund to meet the coming exigency. A committee was appointed by vestry to take the management and appli-

"The following items were common:—for parochial poor list—for the poor of the parish—for poor housekeepers—for cripples. Monies levied for the support of poor persons incapable of supporting themselves. Again such as this—In consequence of the great distress during the winter, *a vestry was held* when the sum (here specified) was unanimously voted.

"These customs being harmonious and voluntary, similar to those of the north of Scotland, were entitled to some consideration. Bishop Brinkley has stated, that it is the opinion of many judicious people, that a law empowering parishes, without making it compulsory, to assess themselves for the support of their own poor, would be attended with beneficial effects. In a great part of Scotland, the funds for the poor are raised voluntarily, that method being preferred both by the administrators and the recipients. But if those voluntary funds fail, an assessment is enforced. The landlord being chargeable with one-half the rate, the occupier of the land or dwelling-house the other; and this assessment prevails in almost all the southern counties.

"Where the assessment is not enforced, the kirk session, in its mode of relieving the poor, resembles the Protestant vestries in the north of Ireland; and in the parts where the assessment is enforced, it corresponds to the vestry in England, as it was when independent of the justices in the matter of relief. The differences which exists between Scotland and England, and between the manufacturing and agricultural population of the latter, are mainly to be ascribed to the poor laws, which, however benevolent in their intention, have become an engine of oppression, more gall-

cation made promptly to the landlords, the clergy of the different denominations, and all others in the districts disposed to lend a helping hand. By those means a sum available, that enabled the Committee to make monthly distributions to a great number of indigent householders, in proportion to the number of the family. The travelling poor were, at the same time, badged. Much good has been done, throughout this extensive parish, by this seasonable charity, and every party seems to be fully satisfied with the judicious and impartial manner in which it has been conducted.

"A few days ago the Committee closed their labors, after passing votes of thanks, &c. It was resolved, at the same time, to persevere in the system of badging the travelling poor, and that printed hand-bills be posted through the parish, during the approaching season of plenty, recommending this resolution to the inhabitants, as highly beneficial to the *deserving poor*, and protecting themselves from the imposition and annoyance of *strangers*."

It was very commendable to provide a fund for the relief of the parochial poor, but the "badging of the travelling poor" seems to be nothing more or less than a license to carry on the debasing practices of mendicity, which it ought to be a principal object of parochial relief funds to suppress.

ing to the artisan and the laborer than any which the malignity of man has ever devised.

"It has been the practice of those who, from benevolent but mistaken motives, would defend the English poor laws, in their utmost extravagance, and of those who, from interested motives, would defend their own conduct, to point to the wretchedness of Ireland, where no legal provision exists, as a beacon which should affright every hardy adventurer in an argument of this kind. In perfect despair or apprehension, they place the inquirer between the horns of a dilemma, from which, as they imagine, there is no escape.

"It is in vain for you to investigate or argue, for the people must either perish on the rock of starvation, or be immersed in the whirlpool of a profligate pauperism; and we deem it more consistent with humanity and Christianity, to prefer a moral to a physical perdition. But giving full credit to this philanthropic Christianity, is there no middle and safe course? Is there not in practice found a plan which relieves extreme want? Is there not a system which relieves impotent poverty, and leaves wages untouched and the national spirit unbroken? Is there not a system which, by voluntary bounty and individual exertion, fosters industry, discourages vagrancy, and promotes the happiness of the depressed classes, by careful and judicious management of parochial relief funds?

"If this happy centre, on which policy and humanity might rest content, cannot be accurately reached, is there no approximation at which we may aim? Is the idea of such a system perfectly Utopian; or, if it is found in practice in other countries, is it inapplicable to the institutions of our own?

"The north of Ireland does not leave us without some reasonable reply to these questions, for there appears (even where no laws compel) a natural inclination in parishes to relieve extreme distress."

Wherever these dispositions prevail amongst the parishioners, there can be no difficulty in establishing parochial charitable institutions, which shall be attended with much good, provided there be held out no facilities for lessening the necessity of individual exertion. On this principle, supported by voluntary bounty, the indigent and destitute poor may be permanently relieved, without any apprehension of poverty and distress multiplying in proportion to the resources of such establishments. But, in order to equalise the burden, it is essentially necessary that the law should interpose to compel the uncharitable, by an act of vestry, to contribute according to their property. A mode of relief might thus become general which would go far to extinguish pauperism and

crime. It might be done in so guarded a manner as, above all, to leave the incentives to gratuitous exertion in full operation; and though it would be impossible to control the dispositions of all, in ever so good a cause, or to persuade individuals devoid of good will to their brethren in need, to appropriate a minute portion of their time and talents to the relief of the distressed in their neighborhood; ("can the Ethiopian change his skin, or the leopard his spots?"¹) yet some would be found unbiassed, active, and willing to do good in that way, and they ought to be supported by such compulsory measures as would supply the deficiency, and augment, by an equitable rate, the parochial relief funds: thus, non-subscribers would be taxed equally with voluntary contributors; and this enforcement is, under existing circumstances, indispensable to the duration and stability of an improved system.

In the application of such principles to the relief of the poor, there would be no employment of improper and oppressive means. It would be perfectly just and fair that the community should be impartially taxed, as to pecuniary matters at least, in promoting the desirable object to which any legislative enactment may be designed to subserve. Charitable taxation might be limited and defined, so as never to exceed the amount of sums supplied for the poor, from motives of benevolence; and in no instance should it be resorted to, unless the principles of voluntary bounty and service first obtaining in parishes fail of the desired effect. Charity judiciously administered, as in Scotland, for the permanent support of the helpless poor, and occasional encouragement of the industrious, would be regarded as the gift of sympathy to suffering, and as a premium held out to labor and exertion; the former having established their paramount claims in their respective parishes, and the latter, no legal pretensions whatever, as able-bodied paupers. By the overthrow of vagrancy the misery of the lower orders would be exchanged for comparative comfort, and their happiness would be promoted, as they practically learn that employment is absolutely necessary to the introduction of every other species of amelioration—since without it there cannot be food and raiment, and without a sufficiency of these, education and all systems of moral and physical improvement fail. With regard to the relative situation of Great Britain and Ireland, it requires little penetration to discover that the lower orders of both countries are approximating to a state of identity. It is evident, that if things continue as they have been of late progressively advancing, the inroads of the Irish peasantry

¹ Jeremiah xiii. 23.

will prove fatal to the interests of the English, who will gradually be reduced to the level of the former. The periodical visits of these unfortunate half-clad Irish, become matter of serious complaint in the western and central counties, where, independently of under-working the English laborers, they familiarize the lower classes, with whom they have intercourse, to their habits and wretchedness: far better for Irish proprietors and English country gentlemen to devise measures for securing employment to his Majesty's loyal subjects in their immediate districts, than to observe, unmoved, the serious effects of their irregular visitations.¹ Far better this than opposing just claims, and keeping the people in perpetual irritation, through the folly of factious men. Ireland possesses within herself vast sources of wealth—she possesses mines of valuable metals, and contains more waste land capable of cultivation than England. The fisheries of Ireland, if properly attended to, would yield abundantly, and employ many more hands than they do at present. But the misfortune of that country is, that the industry of the people has never been adequately applied to the cultivation and improvement of the products of her soil—her rivers—lakes, and sea-coast: the apprehended insecurity of property, from the discontents of the nation, preventing the influx of capital and consequent employment.—Hence the distresses in a great measure of the population—hence the state of moral degradation, which in the alarming progress of events is increasing daily.²

¹ "Another cause of the increase of pauperism, in the agricultural as well as in the manufacturing districts, lay in that particular subject to which it was imperatively the duty of Parliament at once to address itself—the unhappy and degraded condition of Ireland. This country was deluged with Irish poor, who came over in crowds, especially in the season of harvest, and undersold the English laborer in his own market. It was proved before the Emigration Committee, that laborers actually came over from Ireland to this country, drove our own peasantry to the poor-rate, by working for a lower price than they could afford to do, and, even out of that low price, carried back the money which paid the rent of the cottage they occupied at home. It was impossible for him to press on the House too strongly the necessity of some sudden remedy for this enormous and increasing evil. The rents of Irish landlords actually were paid in part out of the English poor's-rate."—*Mr. Stacey's Speech on the Poor Laws, in the House of Commons, April 17, 1838.*

² "That state is increasing daily, is it not?—It is undoubtedly.

"The only mode of diminishing that moral degradation would be to improve the comforts of the people?—Yes, if by raising their respectability you can inspire them with a taste for comforts, after they have had the means of experiencing those comforts for a short time, by the removal of the redundant population.

"In order to improve the comforts of the people in Ireland, is it not essentially necessary that the average rates of wages should be increased?—No doubt.

Hence the unparalleled misery of the poor, which having become proverbial in continental states, persons of intelligence begin now to visit Ireland, for the express purpose of observing to what extent the neglect and oppression of the lower orders can be carried.

With respect to the poor, I am happy to state, however, that a remedial system, recently devised, is now partly in operation in several districts. Since its commencement much good has been done, and the local interests have been greatly benefited; and for general usefulness, all that is wanted is the protection of the state, to improve and to establish it, by means of such legislative enactments as may, in the wisdom of his Majesty's Government, seem meet and right. The pamphlet which I have the honor to transmit herewith, contains a detailed account of the origin, principles, and objects of the plan; on reference to which, it will be seen that a number of respectable persons of an extensive parish in the north of Ireland, having voluntarily assembled to consider the cause of the poor, determined to establish a relief fund for the support of the parochial poor, being important, and with a view of bettering the condition and promoting the happiness of the depressed classes, to encourage the industrious, and to suppress mendicity within the limits of their proper district. The principles of voluntary bounty and gratuitous personal services were recognised, as best calculated for carrying those objects into effect. A sum of money was subscribed towards the relief fund, and a committee appointed, by whom specific regulations were recommended for the management of the intended charity.

The plan having been deliberately matured, it was submitted to

"Have you illustrated your opinions by referring to the people of Ireland and England?—Yes.

"You attribute the difference of the character of the people to the difference of food?—In a great measure.

"Does it depend at all on the Government under which they live?—Very much on the Government; on the strict and equal administration of justice; on the perfect security of property; on civil, religious and political liberty: for people respect themselves more under favorable circumstances of this kind, and are less inclined to marry, with the prospect of more physical sustenance for their children.

"On the degree of respect with which they are treated by their superiors?—Yes, one of the greatest faults in Ireland is, that the laboring-classes there are not treated with proper respect by their superiors—they are treated as if they were a degraded people.

"What is your opinion of the capabilities of Ireland to become a very rich and flourishing country?—My opinion is, that it has very great capabilities; that it might be a very rich and a very prosperous country, and that it might be richer in proportion than England, from its greater natural capabilities."—*Vide Emigration Report, 1827.—Evidence of the Rev. T. R. Malthus.*

a numerous and respectable meeting of the parishioners, and, after a forcible appeal in behalf of the helpless poor, by a distinguished individual, who filled the chair, it was unanimously adopted. The managers of the charity were consequently led to expect prompt assistance from all the landed proprietors and occupiers of lands in the parish; but such reasonable expectations have not been realised, which has retarded their operations and paralysed their exertions for the advantage of society. The entire burden of supporting and relieving the numerous poor has fallen on the humane and the benevolent, whilst the uncharitable escape both trouble and expense: rejoicing in the two-fold benefit which their inhumanity enables them to derive from the change of system with respect to the relief of the poor. May we not reasonably presume, that, in order to advance the welfare of the community at large, all such refractory persons ought to be constrained by law to bear an equal proportion of the assessment?

I beg leave, therefore, to submit the following propositions to his Majesty's government:—

First—The expediency of adopting in Ireland, as a general system of protection and relief of the poor, a method of operation founded on the purest principles of charity; not incompatible with the high interests, nor adverse to the present and future circumstances of that country, but calculated to prove conducive to its welfare; having been already partially brought to the test of actual experiment with beneficial effects. Secondly—that in order to render the proposed plan completely available in Ireland, it is essentially necessary that parishes should be authorised by law voluntarily to provide for the maintenance of their relative poor, being helpless, and for the suppression of mendicity; and, that wherever this humane disposition be manifested, the voluntary contributors, having, *bona fide*, established a partial relief fund, and appointed responsible persons to act gratuitously in the management of it, a select vestry should be authorised to supply the estimated deficiency in the parochial relief fund, by levying a rate equivalent to that already furnished; thereby compelling the uncharitable to contribute, so as to equalise the burden to all able persons, after the manner of parochial assessment in Scotland.

Parish of Ruthwell—Dumfries-shire.

“The Kirk-Session finding their ordinary funds insufficient to enable them to make a specific allowance, it became necessary to call a meeting of the heritors: the heritors accordingly met, and, in conjunction with the session, levied an assessment, one-half of which was paid by the heritors, and the other half by the tenants.”

“It is worthy of remark, that it is principally in districts im-

mediately bordering on England, that the poor-rates are established; that in almost every other district of Scotland, although the law is common to the whole country, legal assessments are practically unknown: I believe this to be principally owing to the judicious management of the Ministers and Kirk-Sessions."—*Vide Minutes of Scotch Evidence, from the Report of the Committee on the Poor Laws, 1819.*

Were parishes authorised by law, thus voluntarily to assess themselves, a great benefit would be conferred upon the poor; and it is obvious how salutary a law of this nature would be; for the dread of being compelled to pay to the rate would cause a subscription to the fund, however reluctantly, by individuals, whose refusal had been given, merely because there was no act of the legislature extant to enforce the obligations of religion and humanity.

In a recent instance, where several citizens of a commercial town refused to subscribe to the funds of a mendicity association, by which the community are much benefited, the municipal authority interfered, and caused the paupers of the establishment to be presented at the doors and windows of the non-subscribers, and there paraded until helped as beggars. This had the desired effect—the previously unwilling gentry contributed:—how much more desirable it would be to make such dissatisfied persons charitable by act of Parliament!

Suppose it essentially necessary in Ireland to limit taxation for the poor, and to make it depend entirely on the best principles, namely, voluntary bounty and gratuitous service, from motives of obedience to the will of God—could not a law for relief of the poor be framed, similar to the act for providing dispensaries in that country? Lord Lansdowne is reported to have, in Parliament, represented it to be a most salutary law, by which money for such a purpose might be levied on the county to the amount of the subscriptions obtained from individuals. It is well known that establishments of the kind have, in consequence of the act of Parliament, become very general, and the poor have been greatly relieved thereby. Why should not the same principle apply in parishes for the maintenance of the helpless poor?

In order to give an idea of what might be sufficient for that purpose, on an average, as a permanent relief fund in parishes, I shall take, for example, the one already noticed, which consists of about twelve thousand acres, Irish measure, yielding about 1*l.* each, rent. The present parochial fund created by voluntary bounty, amounts to 200*l.* sterling per annum.* Taking for

* Average number of poor relieved by this Charity since its establishment

granted, the law may authorise the select vestry to levy, if necessary, a sum equal to that subscribed, and the whole to be raised by an acreable assessment, the rate would be only eight pence an acre, one-half payable by owners, and the other by occupiers—the whole tax would only come to four pence in the pound rent to each, and an ample fund would be secured to the parish for the decent maintenance of the helpless poor, and the suppression of mendicity.

At present, the number of helpless poor maintained in a population of about five thousand, is only twenty-five, the number relieved by small pensions in their own houses, or the houses of their relatives, and by an occasional supply of the material for industry, amounts to one hundred and twenty. The exemplary resignation of the former in the pains, privations, and afflictions, with which they are visited, is worthy of remark; but the voluntary charity, though small, has mitigated their sufferings, and afforded a degree of comfort, assistance, and support, which they had never before experienced—and what has been the cost?—The average bounty to each impotent, by the week, for six months that the system has been in operation, amounts to eighteen pence; at this rate, the yearly cost of twenty-five helpless paupers would come to 97*l.* 10*s.*; and 1200 parishes in Ireland, say at 100*l.* each, could unquestionably afford the product 120,000*l.* sterling, for that desirable object, or even three times that amount, for general relief of the national poor, in the manner proposed; for I apprehend 360,000*l.* at least, or half a million at the farthest would constitute ample funds, if collected and distributed judiciously to the poor in their respective parishes, by a fixed and vigilant management. Thus we should avoid the lax and incoherent system of England, where half a million and more is annually levied by rates for each million of the population; and we should follow the admirable example of our neighbors in Scotland, where the average expense per head, in a year, is only about fifteen pence on the population, and does not exceed 120,000*l.* annually, for the whole country.

In order to illustrate this assertion, and to demonstrate its practicability, I shall add the items of expenditure for the maintenance

Average number of helpless poor maintained	28
312	190
28 at 1 <i>s.</i> 6 <i>d.</i> per week	£42 0 0
120 at 10 <i>d.</i> per week	96 15 6
But allowances too inconsiderable.	
Sum expended	138 15 6
Average monthly expenditure	19 17 6

of a single Irish pauper in a mendicity asylum, in a city of considerable note;¹ the institution is entirely supported by voluntary bounty, by the munificent contributions of the benevolent Lord Bishop, and many most worthy individuals, who set the example to the parishes of the diocese and the adjacent counties, an example, that ought to be imitated by the whole country, of liberality, patriotism, and beneficence; in spite of which, however, many complaints are still made of the unwillingness of the uncharitable to subscribe.

Londonderry Mendicity Asylum, 1825, 1826.

Average number of paupers, 96—Average daily cost of each, THREE PENCE!

	s.	d.
Allowances weekly 3½ lbs. of oatmeal each, value	0	4½
Potatoes 21 lb. each	0	6½
Milk	0	3½
Tobacco and soap	0	1
Lodging and superintendency	0	5
	1	9

They clothe themselves by their industry now, instead of wandering in idleness, covered with filth and rags, as witness the travelling poor.

Is it possible, after this statement of the superlative cheapness of supporting the poor decently that there should be men ill-disposed to acts of kindness, which cost so little—void of humanity, and serious consideration for the wants and indigence of their neighbors?—Yes, I am concerned to say, there are too many who cannot understand the English maxim, “Live, and let live,” but will show their aversion to the practice founded on it; for there is a numerous class among us who are wrought on by nothing but what applies immediately to their senses, by what they see or by what they feel. Now, the miseries of the poor they are blind to, and they feel not the cravings of hunger, the pains of helpless destitution, nor the bitterness of the winter’s cold, when deprived of comfortable firesides and warm clothing.

Many of the opulent are supremely given up to habits of selfish gratification, to pride, vanity, and extravagant expenses, with no thought, and little compassion, for any of the misery with which they are surrounded. The sports of the day, the amusements of the evening, entertainments and diversions, occupy all their concern; and so long as these can be supplied in succession, their minds remain in a state of perfect indifference to every thing

¹ Londonderry.

except their pleasures. Now, the concerns of the indigent and destitute have no chance with such dispositions as these.

Again, there is another class in Ireland, among the farmers, jobbers, rent and tithe extortioners, and middlemen, who practically oppress the poor, by whom any proposition, as to an improved relief system, would be scoffed at. Charity dwells not with marble-hearted characters such as these for each of them satisfies his conscience with the poet's sentiment of the man in Islington—

“The naked every day he clad
When he put on his clothes.”

Ireland has long been cursed also with an ignorant and bigoted set of men, actuated by mistaken zeal for the cause of truth¹ and the extinction of error in religion. They lean entirely to factions in the state, from self-interested motives—they oppose with all their might, the progress of political and religious liberty; but as well may they attempt to stem the flood-tide of the vast Atlantic. “They compass sea and land to make one proselyte.” They stalk through the country, discord following in their train; bearing in one hand the book of peace, and in the other the statute book of persecutions, producing by this preposterous conduct, hatred, variance, wrath, strife, envyings, murders!—consequently, a host of angry antagonists starts up in self-defence; so that, in fact, charity, peace, and Christian fellowship, which ought to subsist among the people, are lost in the rancour of political and religious animosity. The proper objects of solicitude, such as the extension of education—the diffusion of useful knowledge—the employment of the lower orders—and the care of the poor, enter not into the heated imaginations of these fanatics and enthusiasts.

Still, however, there is a most numerous and highly respectable class of resident gentry and clergy—owners and occupiers, who are well disposed to alleviate the distress, and to improve the

“An intolerant spirit displayed on the side of truth hath called forth determined obstinacy on the side of error. The soundest cause hath thus been made to suffer from the ill-advised hastiness of its best defenders. Angry feelings are generated, and the parties stand; in respective positions, mutually impregnable. When disdain on the one side meets with defiance on the other, truth falls from her omnipotence and error becomes more firmly rivetted on her basis.

“Would orthodoxy but put on her bowels of mercy, and would the champions of the faith but conduct themselves in the spirit of unabused Christianity, they would more effectually subserve its real interests. This had been forgotten by theologians in their controversies, and by legislators in their statute books. By extensively mingling the terrors of human wrath with the enforcement of a religious system, they had both unintentionally wounded the cause of truth in its most vital interests.”—Dr. CHALMERS.

condition of the deserving and the helpless poor, and who keep aloof from those unhappy divisions and jealousies, which have so long distracted the country.

Even the partial operation of the relief system, now advocated and recommended, has been practically found to promote the welfare and improvement of the lower orders. By this system, the mass of pauperism is most likely to be diminished—that appalling evil under which Ireland labors, which, if not effectually counteracted, must necessarily continue to have the most debasing influence, not only on the fate of this country, but on that of the British empire. It remains with the legislature to arrest the progress of an alarming pauperism—it rests with his Majesty's government, in their wisdom, to render efficacious the active exertions of individuals who willingly embark in benevolent undertakings. Of these, the resident gentry and occupiers, for their own sake, should be the first to come forward. They should call loudly on absentees to co-operate in the work of humanity, on a well-organised plan—voluntary bounty and gratuitous personal exertion forming invariably the basis of relief. The helpless and wandering poor could, with facility, be brought under control of the unpaid parochial committees.¹

A permanent relief fund being placed at their disposal, for the maintenance of the former class, and the reformation of the latter, the improved system would speedily be established in every parish, founded on the purest principles; the measure would originate in each with the humane and the benevolent, who, actuated by the best motives, would zealously endeavor to carry it into good effect; and a law of the nature proposed, would add its salutary influence to strengthen their hands in a work of such importance, by compelling the uncharitable and the inconsiderate, whether resident or absent, to contribute their indispensable, though unwilling aid, in providing for the necessities of the helpless poor. Thus only can the evils of absenteeism be at all remedied in a country drained of its resources by those who should feel most interested in its prosperity.

¹ In illustration of one important advantage, I should observe, that, under this system, men in society are brought together in these parochial committees—all engaged in one laudable undertaking, from Christian motives:—whereas, formerly, and still wherever the improved system is not adopted, the same individuals have never, or will never meet, except for purposes of religious controversy or political hostility; the ultimate end of which is any thing but peace, charity, and the advancement of the glory of God. Another advantage is gained by the resident gentry and farmers, who being relieved from the heavy burden of supporting a host of mendicants, are thereby enabled to afford more abundantly to their distressed neighbors within their respective parishes.

Every resident gentleman and farmer knows pretty well how much it costs him annually to relieve in the way of alms, either in money or kind, the host of paupers termed the travelling poor:—he knows also, that if all the money or value given in that way in his parish, were collected into a well-regulated fund,* it would be more than sufficient to maintain, on ample allowances, twice the number of the parochial poor. It is well known throughout Ireland that absentees give nothing to mendicants; a system, therefore, which would fairly tax all parties, as well owners as occupiers, must have the desirable effect of usefully relieving the national poor, maintaining the helpless, and civilising the country. With respect to the management of parochial relief funds and the system proposed, there should be no hired agency and no interference of the justices with parish affairs. The machinery and regulations, as adopted in the several parishes where mendicity has been suppressed, will be found answerable to all country parishes, and generally applicable to cities. The vigilance of the unpaid parochial committees would guard against abuses which seldom obtain where institutions for charitable purposes are gratuitously founded and conducted. The parochial committees, which would consist of the resident gentry, clergy, and respectable farmers, would act like the ministers and kirk-sessions in Scotland, as jurors for the unfortunate objects of their occasional care; and their guardianship of the funds entrusted to their disposal would be considered a most solemn duty. By the gratuitous exertions of individuals, under Providence, the aspect of affairs in Ireland would brighten; for the improvement of the peasantry and the well-being of society would naturally combine with the increased comfort, moral elevation, and meliorated condition of the hitherto-neglected and most depressed class of the community: real objects of charity would be properly noticed and their claims investigated; the poor would generally be confined to their own parishes; the evils of mendicancy would pass away; the enormous mass of human misery, in nature, circumstance, and degree, which owes its existence to the defective institutions of the country, might be gradually diminished; scenes of public inhumanity and private wrong, so disgraceful to a Christian people, would no longer be witnessed, nor would the extremity of poverty, distress, and want, be perpetually and bitterly endured by the helpless and the destitute. In short, the moral degradation of the poor of

* The mere operation of collecting, &c. could be done with the greatest facility in all parishes where that admirable measure of Lord Wellesley's government, the tithe-composition act, is in force. The applotments made by the tithe-roll, under these circumstances, would be just and right, and much less oppressive than by the old mode of county assessment.

Ireland, from their being habitually involved in abject penury, without one solitary ray of hope for the better, during the remainder of a dreary and wearisome existence, would give way before the liberal and enlightened policy of the efficient administration which his most gracious Majesty (the friend of Ireland) has been pleased to establish for the welfare and prosperity of his dominions. I sincerely hope you may yet enjoy the inestimable satisfaction of being enabled to accomplish the noblest of moral achievements, by which the character of a statesman can be eminently distinguished, namely, the carrying, triumphantly, measures of freedom to an oppressed people,¹ and of relief to the deepest in distress. God is pleased sometimes to give effect to the weakest efforts in the cause of humanity; and the writer will rejoice and give to Him all praise, if any thing he has here feebly advanced should be found worthy of notice among men of sound judgment, wisdom, and experience, from whose opinions, with reference to the subject, the happiest result may be expected; or, should any practical hints, which he has thrown out with unaffected solicitude for the relief of the distressed, and the removal of their calamities, have a tendency to rescue, from the most profound depths of human misery, a numerous body of poor sufferers, who, having long borne their sorrows in silence, and with resignation to their deplorable fate, are now led to cherish a faint hope that the humblest appeal in their behalf may not be made in vain.

¹ The most preposterous of all notions, is the apprehension that the Irish Catholics, if emancipated, would prove dangerous to the episcopacy of England, or the presbyterianism of Scotland. The religious systems of England and Scotland are steps in advance of the Roman Catholic faith: they are the results of higher moral and intellectual facilities, analysing, purifying, and directing religious feelings; and the minds which have devised and supported them are far superior in native power and acquired intelligence to the mass of those who profess popery in Ireland.

To fear, therefore, that error advocated by feeble intellect, will prevail over truth advocated by masculine understandings; that ignorance and poverty, and vice, will extinguish intelligence, is an absurdity of which intelligent men ought to be ashamed.

The Roman Catholic religion, among other causes, contributes to the backwardness and barbarism of Ireland.

Its debasing superstition, childish ceremonies, and the profound submission to the priesthood, which it teaches, all tend to darken men's minds, to impede the progress of knowledge and inquiry, and to prevent Ireland from becoming as free, as powerful, and as rich as the sister kingdom.

Though sincerely desirous of the emancipation of the Roman Catholics, we do not advocate their peculiar doctrines. We should be delighted to witness a general conversion to Protestantism among the Irish; but we do not think that violence, privations, and incapacities are the proper methods of making proselytes.

The relief system proposed may be objected to—first, by landed proprietors especially absentees, because, forsooth, they dread the introduction of the English poor laws; and still more, the smallest reduction of their rents—even at the trifling rate of four pence in the pound sterling, to be appropriated to charitable purposes, or to alleviate human misery, which is found, in the aggregate, much more intense, and more extended on their estates, than within the circle of a resident landlord's influence: and, secondly, by persons averse to all species of useful reform, disliking innovation, in spite of their experience of its benefits; and unwilling to add personal exertion to a tax which would not exceed a moiety of that which mendicity imposes. They will give themselves no trouble to carry into effect measures of relief, not only to the poor, but to the community, because they cannot perceive that they themselves will derive any advantage from it.

Selfishness in both cases is obviously the motive of such objectors; but baseness of sentiment and senseless argument ought not, in any instance, to prevail against the dictates of conscience, humanity, and sound policy.

The virtues of generosity and active charity have not entirely left the land, although many Irishmen, both of high and low degree, have deserted their country; the former in pursuit of pleasure; the latter, of that employment and help which the others cannot or will not grant.

Were measures of relief, as now recommended, sanctioned by act of parliament, a simultaneous movement would take place throughout Ireland; and the law would owe its efficiency to the zealous exertions and charitable disposition of individuals, who, from a sense of duty, stand foremost in voluntary and philanthropic efforts; “for none of us liveth to himself.”—“We ought,” says the Christian philosopher, “to regard our lives, (including under that name our faculties, our opportunities, our advantages of every kind,) not as mere instruments of personal gratification, but as due to the service of God; and as given us to be employed in promoting the purpose of his will, in the happiness of our fellow-creatures. I am not able to imagine a turn of thought which is better than this. It encounters the antagonist, the check, the destroyer of all virtue—selfishness. It is intelligible to all; to all different degrees applicable. It incessantly prompts to exertion, to activity, to beneficence.”

Under all the circumstances already detailed, and from what has been advanced with reference to the state of the Irish poor, and to the practical view of an improved system of relief; while,

I trust, I have not ventured to offer any erroneous notions, visionary projects, or impracticable schemes; if I mistake not, the truth of the following propositions has been established.

First—The helpless poor in Ireland exist in a deplorable condition of extreme suffering and destitution.

Secondly—It is the revealed will of God,¹ as well as the natural dictate of humanity, that they should be relieved by the gifts of succour, the means of subsistence, and places of refuge in their adversity.

Thirdly—It is practicable, from experience of the utility of a specific plan to alleviate their distress, and to meliorate their condition. *Ergo*, it is the duty of individuals in society at large, to perform, and failing them, of the state to enforce the performance of that duty, viz. the granting to the helpless poor permanent and substantial support.

Every one of these propositions, and the conclusion which has inevitably followed, I am persuaded is unquestionably true; moreover, it cannot be denied, that several towns, and one parish of considerable extent, have made signal attempts to act in accordance with the obligations of religion. Already, the partial operation of a relief system formed on approved fundamental principles has done much good.

The appeal in behalf of suffering humanity has been favorably replied to, both by absent proprietors and resident gentry. I should observe that one of the London companies, which in its corporate capacity enjoys the revenue arising from about 6000 statute acres in the parish adverted to, has willingly contributed to its relief fund, and it is but justice to state of the English corporators, possessors of extensive estates in the north of Ireland, that they are perpetually engaged through the medium of their agents, and the funds at their disposal, in carrying on works of practical utility and beneficence for the improvement and welfare of their tenantry. Now, it stands to reason, that a body of intelligent and opulent Englishmen could not easily be led to countenance projects of mistaken benevolence, nor any thing that might have in all its bearings, the slightest tendency to deteriorate their property, or to prove prejudicial to the interests of husbandry and the land occupiers. This fact is of momentous importance, because it will convey an admonition to absent Irishmen, in the matter of subscribing to parochial relief funds, ere the exigencies of the state, and the embarrassments of England, by reason of

¹ Is it not to deal thy bread to the hungry; and that thou bring the poor that are cast out to thy house? When thou seest the naked, that thou cover him, and that thou hide not thyself from thine own flesh?—ISAIAH lviii. 7.

Irish pauperism, require of them four shillings in the pound, as a poor's-rate, instead of four pence.

I should add here a warning to farmers and landholders, many of whom have given proof of their unwillingness to comply with the requisitions of humanity: although they have experienced, and cannot but acknowledge the beneficial effects of the improved system, they are so perversely wedded to old habits, that they would rather bestow ten times the amount of their rate either "in meal or in malt," on the travelling poor, otherwise idle and strolling vagabonds, than part with a trifling sum in support of an useful charity. They are sincerely advised to beware of the poor tax by the writer.

The opinion of many sensible men is, that nothing better could be adopted as a general measure of relief than the system now advocated; that it is essentially necessary to establish it by law, if it be desirable to carry it into extensive operation, or even to attempt any reformation; because, from the reasons assigned, the best principles invariably fail of their efficacy, if not sanctioned and supported by the strong arm of the law. I am borne out in this assertion by the scheme having proved abortive in a neighboring parish; and why?—the farmers would not support the fund. And, in others, the measure has been proposed; but the reluctance of some, and supineness of others, counteract the dictates of humanity. Nor will any thing be done, however useful in Ireland, unless the people are inspired with that salutary dread of a legal enactment, which would actuate them to the performance of a most solemn and sacred duty. Some private individuals may be well disposed to exert all their energies in a good cause, but there is a considerable number that would remain inactive and unconcerned: even if an angel descended from heaven to persuade them, "neither will they be persuaded though one rose from the dead."¹

The facts I have stated are incontrovertible; and one fact is worth an infinity of unsupported assertions: the conclusion, therefore, is irresistible, that the establishment by law of this improved relief system must infallibly be attended with happy and beneficial effects, not only as it relates to one most miserable class of human beings, but to the general interests of the distinct orders of society in Ireland. If the publication of this letter be approved, or at least not objected to, on the grounds that it can do no harm, perhaps some little good to the unhappy, for whose advantage it is written, it shall go without further apology before the public.

I have the honor to be, &c. &c. &c.

A MEMBER OF A PAROCHIAL COMMITTEE.

¹ St. Luke xvi. 31.

COLOMBIA IN 1826.

By AN ANGLO-COLOMBIAN.

ORIGINAL.

LONDON :—1828.

THE Abbé de Pradt has justly observed that the nations of Europe can no longer consider South America as a country with which they are but feebly and remotely connected. The barrier of distance disappears before the energy of commercial speculation, and a stimulus has been created comparable only (making due allowance for the different character of the times) with the period of the Crusades, or that of the first discovery of "this new world." But while no one is fitter than M. de Pradt ably and eloquently to illustrate the importance of the connexion present and future betwixt the two hemispheres, we must something dim the brilliancy of his coloring, and sober the enthusiasm of his partiality, if we would estimate accurately the real state of the great political sections of South America. It would indeed be not only a striking moral phenomenon, but perhaps a specious argument in favor of the Spanish colonial government, had the several liberated states placed themselves at the moment of their emancipation in the rank of free and enlightened nations. What stronger palliation could be offered in favor of despotism than that its evil influence ceased at the moment its chain was snapped, leaving the moral character of its subjects undegraded, and in full aptitude to follow up the career of freedom? Such, however, is not the case. The Spanish government has been every where replaced by constitutions more or less liberal, but founded on *exotic* ideas, lacking too frequently the support of analogous feelings, consequently unstable, and vibrating from the impressions of contradictory political tendencies. In fact, when we consider that the great mass of the South American population is enveloped in the darkest ignorance, enslaved to the greatest superstition, and consequently destitute of moral principle, we may conceive the obstacles which embarrass and retard the machine of republican government. Under such circumstances, we must rather wonder, with respect to political institutions, that all is not lost, than lament that so little has been attained.

If we would examine the causes which, in spite of these difficulties, have given a republican bias to the South American governments, we shall consider, *first*, that the theories of government, which had been gradually introduced and eagerly embraced by the earliest and most enlightened promoters of independence, were all republican, or at least founded on the doctrine of equal rights: it would indeed have been ridiculous to resist the Spanish government on any principle less general; the negation of the right of one to govern the many being necessarily followed by the admission of the right of the many to govern themselves. *Secondly*, although many families in the several colonies had attained a sufficient degree of opulence to give them an aristocratical weight in society, they were not in other respects the persons who played the most brilliant part, and acquired the greatest celebrity during the revolution. Wealth, when uncombined with talent and education, is selfish and averse from risk or novelty. The foremost ranks were filled by those whose hopes and ambition predominated over their fears. As the struggle became more deadly and protracted, the patriot phalanx was recruited rather from the middling and lower than the upper classes, while the numerous vicissitudes of fortune continued to break down whatever of ancient rank or property rose above the democratic level; so that the sequel of the contest found such a state of things established that republicanism became a matter less of choice than necessity, from the absence of all the necessary elements for constituting a less popular form of government. We must consider, *thirdly*, the influence exercised by foreigners whose education and commercial interests all tended to destroy ancient prejudices, to generalise liberal feelings, and in every respect to establish the reverse of what had existed during the dominion of the Spaniards. Even the military spirit, so widely diffused, has been less fatal than might have been expected to civil liberty. In the protracted wars and widely-extended regions of South America, it was difficult for a single chief to acquire a predominating influence. The general distinguished in one province was unknown in another. The patriot armies were, moreover, of too heterogeneous and fluctuating a nature to be actuated by any strong or durable feeling towards a single commander. The several chiefs were, besides, rivals in glory, and each was aware of the vantage he would give against himself by deviating from those popular principles, which the many are interested in preserving, and few are strong enough to despise with impunity. Even the clergy who embraced the revolutionary cause seem rather to have been flattered by the influence they possessed in the new order of things, than aware of the destructive tendency of republicanism to their particular interests. It is thus that a combination of local

and peculiar circumstances has placed the South American states on a political eminence more elevated than corresponds to the general character of their population. We might say that their several governments present externally an appearance as fair and harmonious as that of the United States, while there is nearly the same intrinsic difference as betwixt an edifice of solid marble and a Russian ruin decorated with a plaster façade to impose on the travelling autocrat when he makes a survey of his dominions. Keeping in view these remarks, it is easy to understand the sudden rise and equally rapid downfall of Iturbide in Mexico, the numerous transformations of the government of Buenos Ayres, the vacillations in that of Chili, and the changes actually taking place in Peru and Colombia.

The situation occupied by the latter as the political centre of the South American states, the direct influence she exercises in Peru and Bolivia, now occupied by her troops and generals, together with the numerous interests and relations which connect her with Europe, will excuse a more particular detail of the parties and opinions by which she is divided.

When the war of independence extended itself in every direction over her immense territory, from the forests of the Orinoco to the shores of the Pacific, and the functions of her government were limited to those of a military commissariat, unity of means and operations was naturally looked for, and found in the central government of Bogota, around which were aggregated the several portions of the country successively emancipated from the Spanish yoke; but this system, however useful for the purposes of a campaign, was soon found to be very ill suited to the purposes of civil legislation and constitutional government. The evils designated by Constant, with others originating in the peculiar circumstances of the country, rapidly developed themselves. "Great states," observes this able politician, "labor under great disadvantages; for the laws originate at such a distance from the subjects to whom they are to apply, that serious and frequent mistakes must be the consequence. The government adopts the views of those by whom it is immediately surrounded, and not unfrequently takes the opinion of the capital for that of the whole nation: a local or casual incident gives birth to a general law, and the inhabitants of distant provinces are suddenly surprised by unexpected innovations, unmerited severity, and vexatious regulations, destructive of all the bases of their calculations, and safe-guards of their interest."—*Course of Constitutional Politics*, c. xviii.

A necessary consequence of bad education in all the Spanish colonies is a dearth of every species of talent which supposes general information and correct reasoning. The number of indi-

viduals fitted to represent public interests is therefore extremely small; but even this small number is reduced by the nature of the central government. The representatives of distant provinces, besides long and dangerous journeys, are subjected by it to a three years' banishment from their interests and families; so that the persons best fitted for public characters shrink from so burdensome an honor, which thus drops into the hands of "briefless barristers" and political adventurers, who are too readily converted into passive tools of the executive. The consequence has been a legislation so exuberant, complicated, and inapplicable, that the wheel of government has been literally stopped by the accumulation of contradictory enactments, and a general cry has been raised from Caraccas to Guayaquil, "*We will have nothing more to do with the congress of Bogota.*" The disorganised state of the public finances has further contributed to embarrass the central government. With an expenditure of fifteen millions of dollars, and a revenue of six, it is evident that nothing short of the most rigorous economy could prevent a national bankruptcy: economy has not, however, been the order of the day. The supposed facility of borrowing from England has probably had the effect of smothering this most essential republican virtue. Instead of simplifying the old Spanish system of internal administration, it has been complicated by the creation of new offices, which absorb the rents while they augment the unproductive class of the nation. The government imagined it was augmenting its friends and creatures; but it has since discovered there is no friendship so insecure as that of an unpaid placeman. Every financial scheme has proved a complete failure: the property-tax has produced a mere trifle, because the frauds of the rich are every where connived at by the magistrates and collectors, while the inconsiderable sums extracted from the poor and unprotected have rendered the government odious without relieving its necessities. It may also be observed, as an illustration of the moral state of the country, that the congress has lost as much popularity by its beneficent as by its impolitic measures. The native commercial interest struggled against the liberty granted to foreign merchants and merchandize. Religious toleration has purchased the enmity of the monks and clergy, with their numerous fanatical adherents. The law of negro-emancipation has alienated the slaveholders. The abolition of the Indian tribute has been equally unacceptable to the land-owners of the southern department. The prohibition of bull-fights has been no less unpopular with the lower orders; so that in all directions the seeds of discontent were sown, and wanted but an occasion to ripen into open discord. This occasion has first presented itself in Venezuela. Caraccas, destined by nature to be the Athens of South America, proud, not without

reason of the superior talent and information of her inhabitants, and remembering the brilliant part she had played at the commencement of the revolution, could ill brook the metropolitan superiority of Bogota. The first moment of her independence in 1821, was marked by an act of opposition to the central government. The constitution framed in Cuenca was sworn to *with reservations*, and the protest of the municipality was printed. The vice-president denounced this paper as seditious, but the judges of the fact, or jury, refused to find a true bill. This was the first triumph of the liberty of the press in Colombia; and this powerful engine was in a short time placed almost exclusively in the hands of a club or society, whose avowed object was *federation*: the predominance however of the military power, while the Spaniards still held possession of Puerto Cabello, prevented this paper-war from assuming the shape of more decided hostility: neither was the character of General Paez, the military commander of the department of Caracas, such as to encourage the views of the Federalists. Brave and possessed of natural talent, but ignorant and accustomed to all the despotic excesses of a Tartar chieftain, he was wholly unfit to head a liberal party, or to direct the affairs of civil government. In fact, it was on charges preferred against him by the municipality of Caracas for arbitrary and unconstitutional measures, that he was removed from his command and summoned to Bogota to take his trial. In this interval however he had fallen into the hands of the Federal party, when resentment at what he considered the ungrateful conduct of the government, joined to strong personal animosity against the vice-president, General Santander, easily induced him to lend himself to their wishes, and place Venezuela in a state of separation. One of his principal coadjutors in this enterprise was Dr. Peña, formerly chief justice of Colombia, but dismissed from office, and accused of peculation before the senate. This awkward combination of circumstances gave plausible ground to the government to represent the whole transaction as a military conspiracy, founded on private resentments and supported by the factious few, who by means of the press had usurped the authority of public opinion. To those unacquainted with the real feeling of the Caracacians, this allegation might have seemed specious had the explosion been confined to this department, but we have now to observe its progress over the wide territory of Colombia, with a rapidity which could originate only in previous sympathies.

The distance from Guayaquil to Caracas is above 1000 miles in a straight line; more than double that distance by any line of communication; so that it is scarcely possible to admit the idea of previous combination between portions of the country which have less

connexion and intercourse than Italy and England, yet no sooner was the news received of the Venezuelan movement, than the Cabildo of Guayaquil prepared an act stating the necessity of reform, and of a national convention. The departments of Cuenca and Quito followed the example, the former openly refusing obedience to all laws of the congress passed previous to a specified period; the same spirit manifested itself in the Isthmus of Panama, in the department of Maracaibo, and subsequently in Cartagena, so that the influence of the central governments was almost instantaneously reduced to the departments of the Orinoco and Cumana, where the stern character of Generals Bermudez and Ausinendi was likely to maintain a military adhesion to some detached points of Maracaibo and Cartagena, to Popayan, and the departments of Boyaca and Cundinamarca, in which the seat of government and the ancient antipathies betwixt the *Llaneros* and *Serranos*, or people of the plains and mountains, must be allowed some weight.

Thus far the proceedings of the disaffected through the whole of Colombia wear a common face, and converge to the same point, viz. the dissolution of the central government. We have now to mark the differences of political character and principles in the several sections which may render their aims divergent, and even change the whole social structure of this considerable portion of South America.

As soon as the revolution took place in Venezuela, deputies were despatched to Lima by General Paez to communicate the whole transaction to Bolivar, requesting his mediation betwixt the dissidents and the government of Bogota. The municipal bodies of Guayaquil and Quito followed the same course, but with very different intentions. The Venezuelans in requesting this mediation had no idea of sacrificing liberty or republicanism. The departments of the south made an eager prostration of both at the feet of Bolivar. The deputies of Quito had *private* instructions to offer him a crown, and to form an empire by the union of Peru with the southern provinces of Colombia as far as the river Juanambu in Pasto. It is to be observed that this royal plot, though hatched by a few intriguers in the Cabildo of Guayaquil and Quito, who gave the name of *popular* to acts in which the people had neither act nor part, first emanated from the palace of the government in Lima; not indeed from Bolivar himself, but from those near his person, who would willingly sacrifice *his* glory to *their* ambition. That monarchical notions should exist in Lima beyond all other points of South America, will create little surprise when we consider the number of Spanish titles, the aristocratical and ecclesiastical influence, with the strong prejudices of castes, which distinguish this most corrupt and luxurious capital. Bolivar in a

"letter to a friend," dated 1815, and published in Jamaica, foretells the difficulties which these circumstances would oppose both to independence and republicanism. The celebrated Montegudo, secretary of war during the administration of General San Martín in Peru, wrote a pamphlet to prove a republican government incompatible with the state of wealth and morals of that country. In fact a form of government which gives the interests of the many an ascendant over the privileges of the few, will certainly encounter opposition wherever the few have been accustomed to predominate; for this reason royalty found supporters in the southern departments of Colombia, especially in Quito, where the wealth of a petty aristocracy is founded on the state of oppression, from which the Indigenes have been rescued by a law of the congress of Bogota. A royal government, or any government which would restore them this privilege of oppression, would be equally acceptable to these worthy patriots; but this feeling operates within a narrow circle, nor could those who got up the coronation scheme have ventured to propose it openly to the people, without risking a schism fatal to the pretended unanimity with which they designed to impose on Bolívar. The only really popular feeling in the south as well as the north of Colombia is, *separation from the government of Bogota*, but the few who had private objects to gain, relied on the general apathy and political ignorance to give this feeling the shape most adapted to their views. They preached Indian and negro slavery to the land-owners, monopolies to the manufacturers, pay and promotion to the military, and exemption from taxes to all classes, as the consequences of *a firm and stable government*, by which they meant monarchy, and the people they knew not what. Threats were brought in aid of promises. Besides an ideal army of 15,000 Spaniards in the Havannah, it was seriously asserted, that England had resolved to unite with France against the South American States, unless they consented to assume monarchical governments. A paper published at this time in Quito, with the intention of ridiculing the monarchists in what was ostentatiously termed "The free press," was seized and destroyed by the military commandant. This flourish of trumpets proved, however, *premature*. Bolívar's reply indicated a national convention, and the Bolivian constitution as the objects of his wishes. The Seniles immediately retraced their steps: the royal plot *sunk for the present* into oblivion, and the Cabildos of Guayaquil and Quito, in the name and on the behalf of the *Sovereign people*, proclaimed at once the dictatorship of Bolívar, a national convention and the Bolivian constitution. If adulation were directed by any rules of consistency, the extravagance would have

been evident, that a petty municipal body, not even elected by the people, should pretend to assume all the primitive rights of popular sovereignty, merely for the purpose of laying them at the feet of a dictator; never indeed was sovereign more cavalierly treated. In Quito his Majesty was personated by about 150 individuals, comprising all the constituted authorities, civil, military, and ecclesiastic, the latter of whom alone exhibited anything like royal independence of opinion by protesting *against toleration*. The more plebeian portion of his Majesty made some attempt to speak, when one of Bolivar's aid-de-camps quietly told them *that the liberator would be extremely displeased if they made any changes*, and another officer proposed that having agreed on a dictatorship his Majesty's political existence was at an end. It is true that the injunction of *making no changes* seems to have been interpreted, none but such as were in harmony with the wishes of Bolivar, in other respects, they made changes enough, without considering that in decreeing a dictator, all other decrees became null and void, because subject to his absolute pleasure; nor was it less inconsistent to decree at the same time, a national convention, and the Bolivian constitution, the business of such convention being to choose a constitution, and not merely to sanction one already chosen. The acts of Guayaquil and Quito were initiated with various modifications of severity by the minor corporations of the several provinces, as far as Pasto. The city of Popayan here drew a line of resistance, and declared its adhesion to the constitution, not from any excessive attachment to centralism, for Popayan has been always disposed to the federal side of the question, but because in the south the question of separation had been artfully mixed up with principles destructive of republicanism, to which the Popayanese are devoted.

In the mean while the government of Bogota defended itself vigorously by means of the press. Though the inefficacy of its financial measures, and the notorious corruption of several of its *principal* members, had brought on it no inconsiderable portion of odium and contempt, it had on its side the illusion of success with which it had terminated the war, the advantage of an established government contending against revolutionary and consequently *illegal* movements, and finally the defence of republican principles against military violence in Venezuela, and monarchical tendencies in the southern departments. Did the question remain simply betwixt centralism and federalism, the public will would speedily bring it to an issue; but the Bolivian constitution brings a third party into the field, and throws a considerable portion of federal opinion into the scale of the established government. An analysis

of this constitution will enable us to appreciate the opposition it has excited, and to what degree of political separation and discord that opposition may eventually give birth.

The Bolivian constitution, after recognising the sovereignty of the people, *Tit. 2. C. 2. Act 6. 7.* divides the supreme power into four branches, *viz.* 1. The Electoral, 2. Legislative, 3. Executive, and 4. Judicial. *Id. Act. 8.*

1. The electoral body consists of one elector to every ten citizens, or $\frac{1}{10}$ of the *qualified* population. *Tit. 3. C. 1. A. 19.* Its duration is four years. *C. 2. A. 24.* Its functions are, 1. The qualification of citizenship. 2. The election of candidates for each of the several legislative bodies *in triplicate*. The presentation *in triplicate* of candidates to the executive for the several provincial governorships. The presentation in the same manner of candidates for the inferior magistracies, civil and ecclesiastical, to the authorities to whom the choice of them belongs. 3. To examine the legality of their own elections by the people. 4. To represent to the legislature on all subjects of public advantage or grievance.

It must be observed that the limitation of the right of citizenship to such persons as can write and read, *Tit. 2. C. 2. Act. 13.* considerably narrows the popular basis of the constitution in a country inhabited chiefly by Indians, and in which, as in all parts of South America, education is very scantily diffused even among the Creoles. It seems too that with the safeguard of this qualification, there could be no risk in the method of *direct* election, so preferable in every respect to the intervention of electoral bodies. It is a general error in South American legislation to multiply checks on the political activity of the people, without considering that after long habits of slavery the great difficulty to be contended with is, their unresisting apathy; the consequence of which is, that on every occasion of political movement, public opinion is usurped and disfigured by the petty aristocracies of the Cabildos, and constituted authorities. The functions conceded to the electoral body may have the effect of giving political importance to such citizens as compose it, but without exempting it from what seems to be the radical defect in all electoral bodies, *viz.* that while the smallness of their number renders them accessible to intrigue, it is still large enough to protect them against public opinion. The mode of returning members *in triplicate* for the several legislative bodies, the choice from the three being made by the bodies themselves, is a further nullification of the representative system, since it removes still further from the people the choice of their legislators.

2. The legislature is composed of three chambers; 1. of tribunes; 2. of senators; 3. of censors—thirty members to each chamber: the tribunes for four years, the senators for eight, and

the censors for life. *Tit. 4. C. 1. Act. 26. 27. 33.* This unusual arrangement naturally leads us to seek some essential difference in their several functions, but we find there is no attribute of one chamber which might not with perfect propriety be exercised by another, while the movements of the whole are embarrassed by a complication of ends and means, which reminds one of a piece of Gothic mechanism in which an endless number of springs and wheels is contrived to produce a very insignificant effect. It is a faculty of the tribunes (for the faculties of all the chambers are curiously particularised) to make roads, bridges, &c. *Tit. 4. C. 2. Act. 42.* and it is a faculty of the censors to promote the arts and sciences. *Id. C. 4. Act. 59.* though it is plain that the body charged with the public works of a nation, has the most effectual mode of promoting the arts and sciences by employing in these works the ablest subjects. The senate is particularly authorised in ecclesiastical matters, *C. 3. Act. 46.* and the tribunate in affairs of war and finance, *C. 2. Act. 42.*; as if the latter did not require as much, or required a different species of talent from the former. The censors are particularly charged with watching over every breach of the laws and constitution, *C. 4. Act. 50.*; as if in a republic this were not an attribute of the whole representative body. The censors are moreover empowered to condemn to everlasting infamy all usurpers, notorious traitors, &c. *C. 4. Act. 59.* There is however, little danger, lest any South American censorate should thus take on itself the functions of opinion and posterity, at least during the life of a usurper, or successful traitor.

The great objection to this triple monster of legislation seems to be, that while the three chambers are by this division, and the consequent reduction of their numerical force, rendered extremely accessible to intrigue, they are altogether separated both from the support and check of public opinion. In fact, in such a complication of persons and attributes, the people will be unable to decide on whom to fix either praise or blame, and will give up in despair all idea of comprehending the clock-work of their government.

3. The executive is composed of a president *for life*, a vice-president, and three secretaries of state. *Tit. 5. Act. 76.* The president is chosen *the first time* by the legislature, but the future succession is in the vice-president. The vice-president is *chosen by the president*, and approved by the legislative bodies, but in such a manner that they are *compelled* to choose one of the three candidates proposed by the president. *Act. 84. 56.* The secretaries of state are named solely by the president. *Tit. 5. C. 1. Act. 82.* The president is *irresponsible*, *Act. 79.*; the responsibility of the government resting on the vice-president, as prime minister, and the secretaries of state. *Act. 87. 88.* The presi-

dent, besides executing the laws, opening the sessions of congress, and similar matters of form, commands in person the *standing* army both in peace and war: nominates all officers both of the army and navy: the officers of finance, the public ministers, and consuls: chooses one out of three of all civil and ecclesiastical candidates: directs the management of the revenue, and all foreign negotiations. *Act. 82.*

It is to be observed that this formation of the executive is the point of his constitution which Bolivar regards with most complacency. "The president of the republic (he observes in his preliminary discourse) is in our constitution *like the sun*, who, fixed in his centre, gives life to the universe. This is the supreme authority; for in systems which exclude privileged classes, there is particular need of a fixed point round which may revolve magistrates and citizens, men and things. *Give me a fixed point*, said an ancient, *and I will raise the world*: for Bolivia this point is the presidency for life. All our system rests on him, without his moving. His head is cut off, that no one may fear his intentions; and his hands are tied, that he may injure no one. The president of Bolivia partakes of the faculties of the American executive, but with restrictions favorable to the people.¹ His duration is that of the presidents of Hayti. I have chosen for Bolivia the executive of the most democratic republic in the world.

"The island of Hayti (allow me this digression) was in a state of permanent insurrection: after having tried the imperial, royal, republican, and all governments known and unknown, she was compelled to have recourse for her salvation to the illustrious Petion. The destinies of Hayti were trusted to him, and varied no more. Petion named president for life with the right of choosing his successor, neither the death of this great man, nor the succession of the new president, has caused the least danger in the state. Everything has marched on under the worthy Boyer *with the calm of a legitimate royal government*. A triumphant proof that a president for life with the right of choosing his successor, is the sublimest inspiration of the republican system." *Preliminary Discourse, p. 6. 7.*

It is certainly not very correct reasoning to deduce a principle of such importance from a solitary fact, even did it fairly yield the inferences deduced from it, when the government of the United States presents us with a *series of contrary facts*, or elective presidents producing the happiest consequences, and offering the noblest examples; nor is it unworthy of remark, that this solitary support of a new theory should be taken from among a people to

¹ It would be difficult to discover what these restrictions are.

whom the nations of Europe but a few years since with difficulty allowed a place among rational beings ; this however would matter but little, were reason in its favor ; but it is impossible to dissemble, that this presidency for life, with the faculty of choosing a successor, is not merely monarchy, *but something more* ; the form of succession, whether hereditary or elective, is in all absolute governments, a species of check on the reigning monarch. If elective, a part of the royal power may at each election be refunded into the hands of the electors : if hereditary, the views and passions of the heir apparent, with the party which gathers round him, may compel the occupiers of the throne to something of prudence and moderation ; but when to the power of possession is joined the influence of succession, all hopes, all views, and all parties, unite round the individual who both enjoys a crown and can give one : and irresponsible too ! It is true that Constant admits in theory, and the constitutional monarchies of Europe in fact, a species of irresponsible royal idol ; but this relic of fanatical systems and arbitrary practices is evidently a compromise with necessity, which the people are not strong enough to reject, and the writer endeavors to render as harmless as possible : but besides that there can be no reason for establishing in the new world the errors and prejudices of the old, it is certain that constitutional monarchy is a much safer experiment in Europe than in South America. In Europe, custom, opinion, national character, and individual energy, form so many barriers against arbitrary power, which governments seldom deem it safe to overstep : in South America, the Spanish government was methodised despotism, and the revolutionary governments have so frequently imitated its worst practices, that constitutional liberty has anything but *custom* in its favor : opinion is in its infancy, and the national character almost universally destitute of moral energy. In this state of things the power of attack is everything, because the disposition to resist is too frequently nothing : nor can it be said, that a president for life at the head of a standing army, of which he has named the officers, besides the appointment direct or indirect of almost all the placemen of the country, (*Act. 142.*) has either *his head cut off or his hands tied*. It is true that *Act. 83.* imposes on him certain restrictions, according to which he can deprive no one illegally of his liberty or property, nor interrupt the course of the laws and constitution ; but the question is always, Supposing that with or without a pretext he infringes these restrictions, where is the power which shall recall him to his duty ? When the constitutional compact is violated, physical force becomes the sole arbitrator, but in this case the physical force is in the hands of the offender.

4. The judicial branch contains several useful provisions, al-

though it is scarcely possible any material reform should take place in the administration of justice until the entire Spanish code, or collection of codes, civil and criminal, be replaced by laws more consonant with reason and humanity. *Arts. 112. 113. T. 6. C. 5.* establish justices of peace in each district to arbitrate betwixt all litigants in cases of damages prohibiting the prosecution of any suit without such previous attempt at accommodation. *Art. 120.* indicates the future establishment of juries in criminal cases. By *Art. 122.* all confiscation of property, torture, and corruption of blood, are prohibited, and the criminal code is to limit as far as possible the application of capital punishments.

The concluding chapter of the Constitution, or chapter of Guarantees, establishes the right of civil liberty, property, and equality in every legal sense of the word; the freedom of the press; freedom of trade and industry; alienability of property, although belonging to religious establishments; the right of emigration, and the abolition of all hereditary privileges and entailments. *Arts. 144. to 150.* This chapter may in fact be considered as representing the progress of correct ideas in matters of legislation through the whole of South America. Its substance will be found repeated in every constitution, and though each or all of the articles may be occasionally eluded or violated, the perpetual recognition of the same fundamental principles becomes an unceasing memento to the people of their rights, and to governments of their duties.

The Bolivian constitution prescribes no particular religion. Bolivar observes: "It belongs not to the legislator to prescribe a religion, it being his duty to affix penalties to the infraction of his laws that they may not become mere admonitions: when there are no temporal punishments, nor judge to apply them, the law ceases to be law:" and again: "God and his ministers are the authorities of religion, which operates by means and organs purely spiritual; but by no means the body of the nation, which directs the public authority to objects purely temporal." *Preliminary Discourse, p. 15.*

It may be imagined that a scheme of government, in opposition, on the one hand, to political experience and the most approved notions of republicanism, and, on the other, to the most inveterate prejudices of the country, would not escape criticism. In Buenos Ayres, where a constitution has been formed of the simplest and surest elements, it was attacked with severity, nor was the revered manner of its author sufficient, even in Colombia, to shield it from the comments of the public journals: if it has been received as if by acclamation in the departments of the south,

this acceptance is wholly unconnected with any feeling or conviction of its merits, and intended merely as a stepping-stone to private interests. In fact, for what existing evil does it offer a remedy? If substituted in the place of the existing constitution, will the complication of its triple legislature supply the want of local and financial knowledge, or of political honesty, which embarrasses the present congress? Or, in what respect would an hereditary irresponsible executive prevent those abuses of authority, which check the growing spirit of freedom, and engender that timidity and mistrust which prevent a sincere coalition betwixt the people and the government? Even the so-much-vaunted stability seems little likely of attainment. In monarchies, hereditary succession is a mean of stability, because there is no parity of hopes and power betwixt the most popular subject and the meanest branch of the royal family; but in a republic the principle of equality is opposed to the idea of giving one man an advantage over his equals—an advantage fatal to their noblest and most legitimate ambition. In Colombia, though the eminent services and superior character of Bolivar might in his single case render such a pre-eminence admissible, it would be founding a plan of government on the contingency of a single life, with not merely a possibility, but a certainty of its subsequent dissolution. Would Venezuela receive a king from new Grenada? The mountains from the plains? The provinces of the Pacific from those of the Atlantic? It is true that, from the loose and unconcentrated state of public opinion in South America, it is easy to impose any system of government *for a time*, and the error is scarcely discovered till it drops to pieces by a kind of spontaneous dissolution, like a beam eaten through by the termites, which looks fair to the eye till an accidental touch reduces it at once to powder. Such will be the fate of the Bolivian constitution in South America.

Bolivar readily accepted the office of mediator, to which he was called alike by the fears and wishes of the country. His immediate departure from Lima was delayed by the discovery of a conspiracy, the object of which seems to have been to deliver Peru from the presence of a Colombian army: several chiefs were engaged in it, but it was crushed so completely as to permit the president's departure from the country, and on the 19th of September he issued the following proclamation on his arrival in Guayaquil.

Proclamation of his Excellency the Liberator on reaching the shores of Colombia.

"Colombians! The cry of your discord pierced my ears in the capital of Peru, and I am come to bring you the olive branch: accept it as the ark of salvation. What? Has Colombia no ene-

mies left? Are there no Spaniards left in the world? and though the whole earth were our ally, it is our duty to remain submissive slaves of the laws, and bound by the strength of our affection.

"I offer you my services anew, the services of a brother. I inquire not who has erred, nor forget that you are brothers of my blood and my companions in arms. I present you in common with a kiss, and my arms to unite you in my bosom, when I will receive to my heart's core Grenadians and Venezuelans, the just and unjust; all of the liberating army, and citizens of the great republic.

"In your disputes I alone am culpable. I have too long delayed my coming. Two friendly republics, the daughters of our victories, have held me enchanted with the immensity of their gratitude and immortal recompences. I offer myself as a victim for your sacrifice. Let fall your anger on me: it will be grateful if it contents your resentment.

"Colombians! I tread the soil of our country. Let the scandal of your quarrels and the crime of your disunion cease. Let there be no more Venezuela, no more Cundinamarca. Let us be all Colombians; or death will cover the deserts laid bare by anarchy. —Guayaquil, September 13, 1826. 16.

"BOLIVAR."

This proclamation, though clearly constitutional, and therefore hailed by the official prints of Bogota as "the restoration of order in the south," was not viewed in this light by those to whom it was, in the first instance, addressed. Bolivar replied to the several harangues of the civil, military, and ecclesiastical authorities in Guayaquil and Quito, in a manner which seemed to flatter all their wishes and realise all their expectations. He professed his attachment to the Bolivian constitution and praised the moderation of the southern department, as compared with the factions of Guayaquil. He promoted and employed several of the military who had been most active in the late movements, and who now presented the curious spectacle of the same individuals denounced and rewarded by the same government for the same action. Even the monks were induced to hope for protection against the liberalism of the congress. In fine, all were contented; each intriguer believed he had gained his point, and the royalists once more indulged in golden and imperial dreams; so that by a singular revolution of circumstances, republicanism became quite as unfashionable and almost as unsafe a creed as during the rule of the Spanish viceroys and presidents. Bolivar, however, praised the firm adhesion of the Popayanese to the constitutional *régime*; though it must be confessed that his conciliatory language in the south had awakened the mistrust of the republicans of Bogota. The government papers carefully raked up every promise he had made

of fidelity to the constitution, while the "Bandera Tricolor" sounded forth the dirge of expiring freedom, and gave broad hints of the legitimacy of *tirannicide*. The Venezuelans, in the mean time, continued firm in the measures they had adopted. In most of the provinces a system of federation was proposed on the model of the United States; a step perfectly in unison with the real sentiments and interests of the greater part of the population of Colombia, though the vices of a defective political education have in many places given a seeming ascendancy to a different class of ideas.

Bolívar arrived in Bogota on the 14th of November. His measures were far from corresponding to the anticipations of those who pretended to be best acquainted with his intentions. He assumed the extraordinary faculties granted by the constitution in crises of difficulty and danger, and issued the following proclamation:

"SIMON BOLIVAR, Liberator and President of the Republic of Colombia, &c. &c. &c.—COLOMBIANS! It is five years since I left the capital to march at the head of the liberating army from the banks of the Cauca to the silvery crests of Potosi. A million of Colombians, two sister republics, have obtained their independence beneath the shadow of our banners, and the world of Columbus has ceased to be Spanish. Such has been our absence.

"Your evils have called me to Colombia. I am come full of zeal to consecrate myself to the will of the nation. It shall be my code; for, as the sovereign, it is infallible.

"The wishes of the nation have compelled me to assume the supreme command. It is my mortal abhorrence; for it is the means of accusing me of ambition, and of aspiring to a crown. What? Do they deem me so mad that I should aspire to descend? Are they ignorant that the destiny of LIBERATOR is sublimer far than a throne?

"COLOMBIANS! I again submit myself to the insupportable yoke of the magistracy; for in times of danger, moderation were rather cowardice than disinterestedness: but count on me no longer than until the law or the people regain the sovereignty. Permit me, then, to serve you as a simple soldier and true republican; as a citizen armed in defence of the fair trophies of our victories—YOUR RIGHTS.—Palace of the Government, Bogota, 23rd Nov. 1826. 16.

"BOLIVAR."

This proclamation was a death-warrant to the southern royalists: "they stared and were confounded," like men awakened from a debauch, who would fain disavow the follies of their drunken imaginations. Bolívar refused to admit the resignations tendered by the constitutional ministers, Castillo, Restrepo, and Soublétié.

He issued a decree, reducing the civil and military expenditure, by suppressing useless offices and commands; the pensions of retired officers and such as were not actually on service: he enforced the execution of the financial laws, so unpopular in the south, when General Briceño Mendez was appointed supreme chief, and having delegated his extraordinary faculties to the vice-president during his absence from Bogota, on the 24th of November he set off for Caracas.

Not to tread too closely on the heels of events, we may pause here to reflect on the probable issue of the present state of affairs, indicating rather the "consummation devoutly to be wished" than pretending to prophesy amid the uncertainty of future contingencies. There is little hazard in assuming as a certainty the dissolution in its present form of the central government. Even Santanda must feel it hopeless to struggle against the mass of hostile opinion. The utmost hopes of its defenders must have been limited to the preservation of republican principles, and thus far, in spite of the defection of the south, we trust they have not been disappointed: but the question now occurs, what system will be substituted in its place? Will Colombia continue to exist as a single state under a federative government? or will a permanent dissolution take place by the annexation of the southern departments to Peru? Will the Bolivian constitution be adopted, or will the Venezuelan imitation of the United States be deemed better suited to the interests and happiness of the nation? We would willingly seek a solution of these doubts in the laws of nature herself. When we examine the geographical configuration of Colombia, we recognise a series of natural boundaries, which seem to point out corresponding political divisions, by more or less isolating or connecting the interests of the several portions of the population. If we consider the course of the waters which, descending from the southern and eastern ridges of the Andes, across the immense plains of the Meta and Apure, unite to form the majestic Orinoco, we are struck by a similarity of climate, productions, social habits, and a facility of communications, indicative of the fitness of this extensive tract of country to form a single state, whose capital would be Angostura, and whose commercial relations connect it immediately with the island of Trinidad, with Europe, and the eastern coast of the South American continent. The provinces of Cumana, Barcelona, Caracas, Coro, Maracaibo, and we may add Merida and Truxillo,—separated from the plains by the southern ridge of the Andes, with few navigable rivers, but possessing an extensive coast, excellent ports on the Atlantic, and the great inland basin of the Lake,—by the analogies of commerce, habits, political feeling, and easy internal

communications, might form the second member of the Colombian federation. The valleys of the Magdalena, Cauca, and Atrato, which collect the waters of the whole western Cordillera, with the table lands of Bogota, Juvja, Pamplona, and Ocaña, and the littoral provinces of Rio Hacha, Santa Marta, and Cartagena, naturally unite into one state; because in whatever point the course of these waters should be cut by artificial boundaries, the inhabitants on the upper waters are rendered commercially dependent on the proprietors of the ports and coast. The provinces whose commercial relations are exclusively with the Pacific come next. Quito is more naturally connected with Popayan and Pasto, than with Guayaquil; because their internal communications are easier, and their rivers fall into the Pacific at short distances on the same line of coast; Guayaquil unites naturally with Cuenca and Loxa, because the waters of the latter all descend into the Guayaquil river. The isthmus of Panama, destined hereafter to effect a revolution in the commerce of the world, could scarcely be appropriated to a wiser purpose than that indicated by the act of the city Cabildo during the present agitations, namely, that of a Hanse town, or general centre of commercial resort, under the protection of Colombia, or of all the free states of South America.—A general government, on a simple and economical plan, would suffice to preserve the unity of the Colombian nation in its transactions with foreign governments, and in objects of general police; while the several sections of the federation would be vivified by local governments adapted to their situation and interests. But what are the obstacles to such a system? Provincial prejudices, little or no sympathy betwixt the northern and southern departments, who have nothing in common but the name of Colombians; an idea of independence, which may be called the very blindness of selfishness: each petty district, almost each parish, considers that it suffices for itself, and that every species of political union is a loss of importance and an increase of expense. Maracaibo would scarcely become a portion of Caracas, Cartagena of Bogota, Popayan of Quito, Cuenca of Guayaquil. Quito is not indisposed to a union with Peru from the idea that the dependence would be merely nominal, and that the mines of Peru would be dedicated to her expenses. Guayaquil has an idea of independence, but inclining rather to Lima from old commercial connexions. In Venezuela and all the Atlantic coast we may fairly prognosticate the progress of liberal ideas and an approximation in government to the model of the United States. In the south as in Peru some fluctuation may take place, but the aristocratical elements, though partially predominant, are not sufficiently numerous to build up a permanent despotism.

The conclusion, then, on the whole, is favorable to humanity

Even the present state of political agitation, by developing the moral energy of the people, and conducting them to a close examination and knowledge of their institutions, is infinitely preferable to their calm acquiescence in a system unsuitable to the growth of their prosperity. The only two questions to which the present state of things may give rise are, the probability of the Spaniards profiting by the internal dissensions of the country, and that these may lead to a civil war. To the first we may reply, that whatever hopes the folly of the Spanish government may lead it to entertain, we may rest assured that no affection for King Ferdinand is mixed with the opinions either of centralists or federalists, and though the royalists, ever faithful to the principles of servilism, are almost all old adherents of the Spaniards, they are precisely the persons least disposed to make any sacrifice of safety or self-interest in favor of any party or principles whatsoever. For the mass of the population experience teaches us that a nation is never farther from receiving a foreign yoke than when engaged in the establishment of domestic liberty. With respect to a civil war, though partial conflicts may take place, there is little to be apprehended. The several sections of Colombia stand in the same relation to each other as the greater part of the inhabitants individually. Distance weakens their enmities and prejudices, while it impresses on the imagination the hopeless folly of attack and the security of defence. With what hope or interest could Venezuela attack New Grenada? Or the latter march to combat on the shores of the Pacific? On the contrary, the military career is becoming pretty generally an object of disgust or hopeless speculation. So must it necessarily happen in new countries where the attraction of independence is much stronger than the scanty remuneration of the government.

Rejecting as unfounded the idea that the present state of revolution may prove any serious impediment to the prosperity of the country, we are led to contemplate for a moment the more pleasing side of the picture, *its future progress*.

When we consider the circumstances under which the independence of South America was established, the benumbing weight of ages of ignorance and despotism, the consequent vices which had infected the moral character of the people, and the prejudices which had become radicated in all their social institutions, we cannot observe, without some degree of surprise and admiration, the progress made in a few years of restless independence, ere political freedom has been consolidated, or the "hot breath of war" ceased to desolate the country. Imperfections indeed still abound, but the struggle has commenced betwixt the principles of light and darkness, and the circle of darkness narrows daily. The seaport towns, both on the Atlantic and Pacific, are so many foci of knowledge and liberal feeling: bigotry retires into the towns and villages of

the interior, and even there no longer enjoys undisputed dominion. Perhaps at the commencement of the revolution a few individuals might be selected of more conspicuous talent and greater scientific attainment than are to be found at present: the energy of their application was in proportion to the restraints by which they were surrounded: but ideas then confined to a few secret students have since become the patrimony of the multitude, and on all subjects correct, and therefore liberal habits of thought and action are becoming more prevalent. The wide dissemination of masonry has contributed to this reform, because it has given courage by mutual support, and mended the moral character by a feeling of emulation and superiority. It is remarkable the servilism of the south was accompanied by an abandonment of masanic institutions, while in Venezuela, masonry has been united with the increase of political knowledge. The proceedings of the congress, in spite of their many mistakes, may be cited in proof of the general improvement. The prevailing character of their laws is enlightened, and friendly to humanity. It is sufficient to quote, the freedom of the press—the safeguard, test, and beacon of liberty—religious toleration; the limitation of monastic vows; the gradual abolition of negro slavery; and the emancipation of the native Indians. These are laws entitled to the gratitude of posterity; their benefits are eternal. We may say the rubbish is clearing away which blocked up the road to national prosperity. In Venezuela agriculture will give birth to an increasing demand for European manufactures. The mineral wealth of the Andes will ere long put the mountain regions on a level with the riches of the tropical plains; above all, the tide of European immigration, with its concomitant advantages of knowledge, capital, and enterprise, will continue, Nile-like, to inundate and enrich the country. Even the projects that fail serve as buoys in the channel: if stockjobbing speculations are exposed to the risks of bad faith and deception, colonial establishments have only nature to contend with—those toils and privations which transplant to the new world the arts, civilisation, and social enjoyments of the old.

It is impossible to reflect on the political situation of Colombia, without pausing on the character of the man whose heart and arm have been so powerfully instrumental in her redemption. His career has been Herculean. He has done and suffered to the limits of human possibility. If we would select the predominating faculty of his character, we should say it was persevering energy. He has designated himself as "the man of difficulties." In comparing him with Washington, it is just to remember the relative difficulties of his situation. If he forged the arms of independence from the broken chains of his countrymen, the original baseness of the metal too frequently betrayed itself; but he bowed to all

circumstances, combined the most heterogeneous elements, and directed constantly to the public good a power formidable to itself, because too often the parent of selfish ambition. He has been ever, in a singular degree, superior to those around him; nor has any man had more reason to pray for protection against his friends, for they have almost universally been the friends of his power rather than of his glory. To breathe a corrupted atmosphere, and escape contagion; to "touch pitch, and be not defiled;" are, in a moral sense, the surest evidences of a superior spirit. He has imposed a new debt of gratitude on the world by trampling on the artifices which would have enrolled him in the list of babies, idiots, and tyrants, who have shamed humanity with the idle pageant of diadems and sceptres. His example has become a sacred legacy to all ages and nations; and should he ever waver for a moment, the weeping form of glory would recall him to his duty, and give the *hero* entire to posterity. His present office of mediator betwixt contending political parties and feelings is not the least arduous which has been put on him. He may be called on to sacrifice not merely that he despises, but the predilections of his heart and judgment, in the full conviction that no system of government can be lasting which has not for its basis **THE WILL OF THE PEOPLE.**

The character of the Liberator stands too prominently from the canvass to admit of any comparative object; yet we may rapidly mark the most striking traits of the principal public characters, civil and military. Among the military chiefs, we may distinguish in Bermudez, stanch republicanism; in Paez, valor and military activity; in Santander, political firmness; in Soublette, application; in Escalona, patriotism; in Buceño Mendez, moderation; in Salom, integrity; in Montilla, Machiavelism. Among the civilians, in Mr. Gual, general information; in Castillo, acuteness.

This hasty sketch of the state of parties and opinions will have answered its end, if it tends in any degree to enlighten the British public as to the estimate it ought to make of revolutionary movements which, arising from the very circumstances in which the country is placed, are in no respect likely to cloud the brilliancy of its future prospects, nor ought, in consequence, to act on Europe as a discouragement to political connexions and individual enterprise. The combinations which must necessarily arise from the numerous elements of change scattered through South America, as long as presided over by the spirit of freedom, will continue to present, like the ever-changing images of the kaleidoscope, harmony in variety, and unity of design amid diversity of execution.

Colombia, January, 1827.

REMARKS
ON THE
CHARACTER AND WRITINGS
OF
JOHN MILTON;

OCCASIONED BY THE PUBLICATION OF HIS LATELY DISCOVERED
'TREATISE ON CHRISTIAN DOCTRINE.'

By W. E. CHANNING, LL.D.

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THE discovery of a work of Milton, unknown to his own times, is an important event in literary history. The consideration, that we of this age are the first readers of this treatise, naturally heightens our interest in it; for we seem in this way to be brought nearer to the author, and to sustain the same relation which his cotemporaries bore to his writings. The work opens with a salutation, which, from any other man, might be chargeable with inflation; but which we feel to be the natural and appropriate expression of the spirit of Milton. Endowed with gifts of the soul, which have been imparted to few of our race, and conscious of having consecrated them through life to God and mankind, he rose without effort or affectation to the style of an Apostle.—'JOHN MILTON, TO ALL THE CHURCHES OF CHRIST, AND TO ALL WHO PROFESS THE CHRISTIAN FAITH THROUGHOUT THE WORLD, PEACE, AND THE RECOGNITION OF THE TRUTH, AND ETERNAL SALVATION IN GOD THE FATHER, AND IN OUR LORD JESUS CHRIST.' Our ears are the first to hear this benediction; and it seems not so much to be borne to us from a distant age, as to come immediately from the sainted spirit by which it was indited.

Without meaning to disparage the 'Treatise on Christian Doctrine,' we may say that it owes very much of the attention which it has excited to the fame of its author. We value it chiefly as showing us the mind of Milton on that subject which above all others presses on men of thought and sensibility. We want to

know in what conclusions such a man rested after a life of extensive and profound research, of magnanimous efforts for freedom and his country, and of communion with the most gifted minds of his own and former times. The book derives its chief interest from its author, and accordingly there seems to be a propriety in introducing our remarks on it with some notice of the character of Milton. We are not sure that we could have abstained from this subject, even if we had not been able to offer so good an apology for attempting it. The intellectual and moral qualities of a great man are attractions not easily withstood; and we can hardly serve others or ourselves more, than by recalling to him the attention which is scattered among inferior topics.

In speaking of the *intellectual* qualities of Milton, we may begin with observing, that the very splendor of his poetic fame has tended to obscure or conceal the extent of his mind, and the variety of its energies and attainments. To many he seems only a poet, when in truth he was a profound scholar, a man of vast compass of thought, imbued thoroughly with all ancient and modern learning, and able to master, to mould, to impregnate with his own intellectual power, his great and various acquisitions. He had not learned the superficial doctrine of a later day,—that poetry flourishes most in an uncultivated soil, and that imagination shapes its brightest visions from the mists of a superstitious age; and he had no dread of accumulating knowledge, lest it should oppress and smother his genius. He was conscious of that within him, which could quicken all knowledge, and wield it with ease and might; which could give freshness to old truths, and harmony to discordant thoughts; which could bind together by living ties and mysterious affinities the most remote discoveries; and rear fabrics of glory and beauty from the rude materials which other minds had collected. Milton had that universality which marks the highest order of intellect. Though accustomed almost from infancy to drink at the fountains of classical literature, he had nothing of the pedantry and fastidiousness which disdain all other draughts. His healthy mind delighted in genius, on whatever soil or in whatever age it burst forth and poured out its fulness. He understood too well the rights, and dignity, and pride of creative imagination, to lay on it the laws of the Greek or Roman school. Parnassus was not to him the only holy ground of genius. He felt that poetry was as a universal presence. Great minds were every where his kindred. He felt the enchantment of Oriental fiction, surrendered himself to the strange creations of 'Araby the blest,' and delighted still more in the romantic spirit of chivalry, and in the tales of wonder in which it was embodied. Accordingly his poetry reminds us of the ocean,

which adds to its own boundlessness contributions from all regions under heaven. Nor was it only in the department of imagination that his acquisitions were vast. He travelled over the whole field of knowledge, as far as it had then been explored. His various philological attainments were used to put him in possession of the wisdom stored in all countries where the intellect had been cultivated. The natural philosophy, metaphysics, ethics, history, theology and political science of his own and former times, were familiar to him. Never was there a more unconfined mind; and we would cite Milton as a practical example of the benefits of that universal culture of intellect which forms one distinction of our times, but which some dread as unfriendly to original thought. Let such remember, that mind is in its own nature diffusive. Its object is the universe, which is strictly one, or bound together by infinite connexions and correspondencies; and accordingly its natural progress is from one to another field of thought; and wherever original power, creative genius exists, the mind, far from being distracted or oppressed by the variety of its acquisitions, will see more and more common bearings and hidden and beautiful analogies in all the objects of knowledge, will see mutual light shed from truth to truth, and will compel, as with a kingly power whatever it understands, to yield some tribute of proof, or illustration, or splendor, to whatever topic it would unfold.

Milton's fame rests chiefly on his poetry, and to this we naturally give our first attention. By those who are accustomed to speak of poetry as light readings, Milton's eminence in this sphere may be considered only as giving him a high rank among the contributors to public amusement. Not so thought Milton. Of all God's gifts of intellect, he esteemed poetical genius the most transcendent. He esteemed it in himself as a kind of inspiration, and wrote his great works with something of the conscious dignity of a prophet. We agree with Milton in his estimate of poetry. It seems to us the divinest of all arts; for it is the breathing or expression of that principle or sentiment, which is deepest and sublimest in human nature; we mean, of that thirst or aspiration, to which no mind is wholly a stranger, for something purer and lovelier, something more powerful, lofty, and thrilling than ordinary and real life affords. No doctrine is more common among Christians than that of man's immortality; but it is not so generally understood, that the germs or principles of his whole future being are *now* wrapped up in his soul, as the rudiments of the future plant in the seed. As a necessary result of this constitution, the soul, possessed and moved by these mighty though infant energies, is perpetually stretching beyond what is present and visible, struggling against the bounds of its earthly prison-

house, and seeking relief and joy in imaginings of unseen and ideal being. This view of our nature, which has never been fully developed, and which goes further towards explaining the contradictions of human life than all others, carries us to the very foundation and sources of poetry. He, who cannot interpret by his own consciousness what we now have said, wants the true key to works of genius. He has not penetrated those sacred recesses of the soul, where poetry is born and nourished, and inhales immortal vigor, and wings herself for her heavenward flight. In an intellectual nature, framed for progress and for higher modes of being, there must be creative energies, powers of original and ever growing thought; and poetry is the form in which these energies are chiefly manifested. It is the glorious prerogative of this art, that it 'makes all things new' for the gratification of a divine instinct. It indeed finds its elements in what it actually sees and experiences, in the worlds of matter and mind; but it combines and blends these into new forms, and according to new affinities; breaks down, if we may so say, the distinctions and bounds of nature; imparts to material objects life, and sentiment, and emotion, and invests the mind with the powers and splendors of the outward creation; describes the surrounding universe in the colors which the passions throw over it, and depicts the mind in those modes of repose or agitation, of tenderness or sublime emotion, which manifest its thirst for a more powerful and joyful existence. To a man of a literal and prosaic character, the mind may seem lawless in these workings; but it observes higher laws than it transgresses, the laws of the immortal intellect; it is trying and developing its best faculties; and in the objects which it describes, or in the emotions which it awakens, anticipates those states of progressive power, splendor, beauty, and happiness, for which it was created.

We accordingly believe that poetry, far from injuring society, is one of the great instruments of its refinement and exaltation. It lifts the mind above ordinary life, gives it a respite from depressing cares, and awakens the consciousness of its affinity with what is pure and noble. In its legitimate and highest efforts, it has the same tendency and aim with Christianity; that is, to spiritualize our nature. True; poetry has been made the instrument of vice, the pander of bad passions; but when genius thus stoops, it dims its fires, and parts with much of its power; and even when poetry is enslaved to licentiousness or misanthropy, she cannot wholly forget her true vocation. Strains of pure feeling, touches of tenderness, images of innocent happiness, sympathies with suffering virtue, bursts of scorn or indignation at the hollowness of the world, passages true to our moral nature, often escape in

an immoral work, and show us how hard it is for a gifted spirit to divorce itself wholly from what is good. Poetry has a natural alliance with our best affections. It delights in the beauty and sublimity of the outward creation and of the soul. It indeed portrays with terrible energy the excesses of the passions; but they are passions which show a mighty nature, which are full of power, which command awe, and excite a deep though shuddering sympathy. Its great tendency and purpose is, to carry the mind beyond and above the beaten, dusty, weary walks of ordinary life; to lift it into a purer element, and to breathe into it more profound and generous emotion. It reveals to us the loveliness of nature, brings back the freshness of youthful feeling, revives the relish of simple pleasures, keeps unquenched the enthusiasm which warmed the spring-time of our being, refines youthful love, strengthens our interest in human nature by vivid delineations of its tenderest and loftiest feelings, spreads our sympathies over all classes of society, knits us by new ties with universal being, and through the brightness of its prophetic visions helps faith to lay hold on the future life.

We are aware that it is objected to poetry, that it gives wrong views and excites false expectations of life, peoples the mind with shadows and illusions, and builds up imagination on the ruins of wisdom. That there is a wisdom, against which poetry wars, the wisdom of the senses, which makes physical comfort and gratification the supreme good, and wealth the chief interest of life, we do not deny; nor do we deem it the least service which poetry renders to mankind, that it redeems them from the thralldom of this earthborn prudence. But, passing over this topic, we would observe, that the complaint against poetry as abounding in illusion and deception, is in the main groundless. In many poems there is more of truth than in many histories and philosophic theories. The fictions of genius are often the vehicles of the sublimest verities, and its flashes often open new regions of thought, and throw new light on the mysteries of our being. In poetry the letter is falsehood, but the spirit is often profoundest wisdom. And if truth thus dwells in the boldest fictions of the poet, much more may it be expected in his delineations of life; for the present life, which is the first stage of the immortal life, abounds in the materials of poetry, and it is the high office of the bard to detect this divine element among the grosser labors and pleasures of our earthly being. The present life is not wholly prosaic, precise, tame, and finite. To the gifted eye, it abounds in the poetic. The affections which spread beyond ourselves and stretch far into futurity; the workings of mighty passions, which seem to arm the soul with an almost superhuman energy; the innocent and

inexpressible joy of infancy; the bloom, and buoyancy, and dazzling hopes of youth; the throbbings of the heart when it first wakes to love, and dreams of a happiness too vast for earth; woman, with her beauty, and grace, and gentleness, and fulness of feeling, and depth of affection, and her blushes of purity, and the tones and looks which only a mother's heart can inspire;—these are all poetical. It is not true that the poet paints a life which does not exist. He only extracts and concentrates, as it were, life's ethereal essence, arrests and condenses its volatile fragrance, brings together its scattered beauties, and prolongs its more refined but evanescent joys; and in this he does well; for it is good to feel that life is not wholly usurped by cares for subsistence, and physical gratifications, but admits, in measures which may be indefinitely enlarged, sentiments and delights worthy of a higher being. This power of poetry to refine our views of life and happiness is more and more needed as society advances. It is needed to withstand the encroachments of heartless and artificial manners, which make civilisation so tame and uninteresting. It is needed to counteract the tendency of physical science, which being now sought, not as formerly for intellectual gratification, but for multiplying bodily comforts, requires a new development of imagination, taste and poetry, to preserve men from sinking into an earthly, material, epicurean life.—Our remarks in vindication of poetry have extended beyond our original design. They have had a higher aim than to assert the dignity of Milton as a poet, and that is, to endear and recommend this divine art to all who reverence and would cultivate and refine their nature.

In delineating Milton's character as a *poet*, we are saved the necessity of looking far for its distinguishing attributes. His name is almost identified with sublimity. He is in truth the sublimest of men. He rises, not by effort or discipline, but by a native tendency and a godlike instinct to the contemplation of objects of grandeur and awfulness. He always moves with a conscious energy. There is no subject so vast or terrific, as to repel or intimidate him. The overpowering grandeur of a theme kindles and attracts him. He enters on the description of the infernal regions with a fearless tread, as if he felt within himself a power to erect the prison-house of fallen spirits, to encircle them with flames and horrors worthy of their crimes, to call forth from them shouts which should 'tear hell's concave,' and to embody in their Chief an Archangel's energies and a Demon's pride and hate. Even the stupendous conception of Satan seems never to oppress his faculties. This character of power runs through all Milton's works. His descriptions of nature show a free and bold hand. He has no need of the minute, graphic skill, which we prize in Cowper

or Crabbe. With a few strong or delicate touches, he impresses, as it were, his own mind on the scenes which he would describe, and kindles the imagination of the gifted reader to clothe them with the same radiant hues under which they appeared to his own.

This attribute of power is universally felt to characterise Milton. His sublimity is in every man's mouth. Is it felt that his poetry breathes a sensibility and tenderness hardly surpassed by its sublimity? We apprehend that the grandeur of Milton's mind has thrown some shade over his milder beauties; and this it has done not only by being more striking and imposing, but by the tendency of vast mental energy to give a certain calmness to the expression of tenderness and deep feeling. A great mind is the master of its own enthusiasm, and does not often break out into those tumults, which pass with many for the signs of profound emotion. Its sensibility, though more intense and enduring, is more self-possessed, and less perturbed than that of other men, and is therefore less observed and felt, except by those who understand, through their own consciousness, the workings and utterance of genuine feeling. We might quote pages in illustration of the qualities here ascribed to Milton. Turn to *Comus*, one of his earliest productions. What sensibility breathes in the descriptions of the benighted Lady's singing, by *Comus* and the Spirit!

COMUS.

Can any mortal mixture of earth's mould
Breathe such divine enchanting ravishment?
Sure something holy lodges in that breast,
And with these raptures moves the vocal air
To testify his hidden residence:
How sweetly did they float upon the wings
Of silence, through the empty-vaulted night,
At every fall smoothing the raven down
Of darkness till it smil'd! I have oft heard
My mother Circe with the Sirens three,
Amidst the flow'ry-kirtled Naiades,
Culling their potent herbs and baleful drugs,
Who, as they sung, would take the prison'd soul,
And lap it in Elysium; Scylla wept,
And chid her barking waves into attention,
And fell Charybdis murmur'd soft applause:
Yet they in pleasing slumber lull'd the sense,
And in sweet madness robb'd it of itself;
But such a sacred and home-felt delight,
Such sober certainty of waking bliss,
I never heard till now.

Lines 244—264.

SPIRIT.

At last a soft and solemn-breathing sound
Rose like a steam of rich distill'd perfumes,
And stole upon the air, that even Silence

Was took ere she was ware, and wish'd she might
 Deny her nature, and be never more,
 Still to be so displac'd. I was all ear,
 And took in strains that might create a soul
 Under the ribs of Death.

Lines 555—563.

In illustration of Milton's tenderness, we will open almost at a venture.

Now morn, her rosy steps in th' eastern clime
 Advancing, sow'd the earth with orient pearl,
 When Adam wak'd, so custom'd, for his sleep
 Was aery-light, from pure digestion bred,
 And temp'rate vapors bland, which th' only sound
 Of leaves and fuming rills, Aurora's fan,
 Lightly dispers'd, and the shrill matin song
 Of birds on every bough; so much the more
 His wonder was to find unawaken'd Eve
 With tresses compos'd, and glowing cheek,
 As through unquiet rest: he on his side
 Leaning half-rai'd, with looks of cordial love
 Hung over her enamour'd, and beheld
 Beauty, which, whether waking or asleep,
 Shot forth peculiar graces; then with voice
 Mild, as when Zephyrus on Flora breathes,
 Her hand soft touching, whisper'd thus. Awake
 My fairest, my espous'd, my latest found,
 Heav'n's last best gift, my ever new delight,
 Awake: the morning shines, and the fresh field
 Calls us; we lose the prime, to mark how spring
 Our tender plants, how blows the citron grove,
 What drops the myrrh, and what the balmy reed,
 How nature paints her colors, how the bee
 Sits on the bloom extracting liquid sweet.

Par. Lost, b. v. lines 1—25.

So cheer'd he his fair spouse, and she was cheer'd,
 But silently a gentle tear let fall
 From either eye, and wip'd them with her hair;
 Two other precious drops that ready stood,
 Each in their crystal sluice, he ere they fell
 Kiss'd, as the gracious signs of sweet remorse
 And pious awe, that fear'd to have offended.

Ibid. lines 129—135.

From this very imperfect view of the qualities of Milton's poetry, we hasten to his great work, *Paradise Lost*, perhaps the noblest monument of human genius. The two first books, by universal consent, stand pre-eminent in sublimity. Hell and Hell's King have a terrible harmony, and dilate into new grandeur and awfulness, the longer we contemplate them. From one element, 'solid and liquid fire,' the poet has framed a world of horror and suffering, such as imagination had never traversed. But fiercer flames than those which encompass Satan burn in his own soul. Revenge, exasperated pride, consuming wrath, and

tion though fallen, yet unconquered by the thunders of the Omnipotent, and grasping still at the empire of the universe,—these form a picture more sublime and terrible than Hell. Hell yields to the spirit which it imprisons. The intensity of its fires reveals the intenser passions and more vehement will of Satan; and the ruined Archangel gathers into himself the sublimity of the scene which surrounds him. This forms the tremendous interest of these wonderful books. We see mind triumphant over the most terrible powers of nature. We see unutterable agony subdued by energy of soul. We have not indeed in Satan those bursts of passion, which rive the soul as well as shatter the outward frame of Lear. But we have a depth of passion which only an Archangel could manifest. The all-enduring, all-defying pride of Satan, assuming so majestically Hell's burning throne, and coveting the diadem, which scorches his thunder-blasted brow, is a creation requiring in its author almost the spiritual energy with which he invests the fallen seraph. Some have doubted whether the moral effect of such delineations of the storms and terrible workings of the soul is good; whether the interest felt in a spirit so transcendently evil as Satan, favors our sympathies with virtue. But our interest fastens, in this and like cases, on what is not evil. We gaze on Satan with an awe not unmixed with mysterious pleasure, as on a miraculous manifestation of the *power of mind*. What chains us, as with a resistless spell, in such a character, is spiritual might made visible by the racking pains which it overpowers. There is something kindling and ennobling in the consciousness, however awakened, of the energy which resides in mind; and many a virtuous man has borrowed new strength from the force, constancy, and dauntless courage of evil agents.

Milton's description of Satan attests in various ways the power of his genius. Critics have often observed, that the great difficulty of his work was to reconcile the spiritual properties of his supernatural beings with the human modes of existence, which he was obliged to ascribe to them; and the difficulty is too great for any genius wholly to overcome; and we must acknowledge that our enthusiasm is in some parts of the poem checked by a feeling of incongruity between the spiritual agent, and his sphere and mode of agency. But we are visited with no such chilling doubts and misgivings in the description of Satan in Hell. Imagination has here achieved its highest triumph, in imparting a character of reality and truth to its most daring creations. That world of horrors, though material, is yet so remote from our ordinary nature, that a spiritual being, exiled from heaven, finds there an appropriate home. There is, too, an indefiniteness in the description of Satan's person, which incites without shocking the imagi-

nation, and aids us to combine in our conception of him the massiness of a real form with the vagueness of spiritual existence. To the production of this effect, much depends on the first impression given by the poet; for this is apt to follow us through the whole work; and here we think Milton eminently successful. The first glimpse of Satan is given us in the following lines, which, whilst too indefinite to provoke the scrutiny of the reason, fill the imagination of the reader with a form which can hardly be effaced.

Thus Satan, talking to his nearest mate
With head up-lift above the wave, and eyes
That sparkling blaz'd, his other parts besides
Prone on the flood, extended long and large
Lay floating many a rood, * * *

Par. Lost, b. i. lines 192—196.

Forthwith upright he rears from off the pool
His mighty stature; on each hand the flames,
Driv'n backward, slope their pointing spires, and roll'd
In billows, leave i' th' midst a horrid vale.

Ibid, 221—224.

We have more which we should gladly say of the delineation of Satan; especially of the glimpses which are now and then given of his deep anguish and despair, and of the touches of better feelings which are skilfully thrown into the dark picture, both suited and designed to blend with our admiration, dread, and abhorrence, a measure of that sympathy and interest with which every living, thinking being ought to be regarded, and without which all other feelings tend to sin and pain. But there is another topic which we cannot leave untouched. From Hell we flee to Paradise, a region as lovely as Hell is terrible, and which to those who do not know the universality of true genius, will appear doubly wonderful, when considered as the creation of the same mind which had painted the infernal world.

Paradise and its inhabitants are in sweet accordance, and together form a scene of tranquil bliss, which calms and soothes, whilst it delights the imagination. Adam and Eve, just moulded by the hand, and quickened by the breath of God, reflect in their countenances and forms, as well as minds, the intelligence, benignity, and happiness of their author. Their new existence has the freshness and peacefulness of the dewy morning. Their souls, unsated and untainted, find an innocent joy in the youthful creation, which spreads and smiles around them. Their mutual love is deep, for it is the love of young, unworn, unexhausted hearts, which meet in each other the only human objects with whom to pour forth their fulness of affection; and still it is a *pure* love, for it is the love of happy beings, who know not suffering even by touch,

whose innocence excludes not only the tumults but the thought of jealousy and shame, who, 'imparadised in one another's arms,' scarce dream of futurity, so blessed is their present being. We will not say that we envy our first parents; for we feel that there may be higher happiness than theirs, a happiness won through struggle with inward and outward foes, the happiness of power and moral victory, the happiness of disinterested sacrifices and wide-spread love, the happiness of boundless hope, and of 'thoughts which wander through eternity.' Still there are times, when the spirit, oppressed with pain, worn with toil, tired of tumult, sick at the sight of guilt, wounded in its love, baffled in its hope, and trembling in its faith, almost longs for the 'wings of a dove, that it might fly away' and take refuge amidst the 'shady bowers,' the 'vernal airs,' the 'roses without thorns,' the quiet, the beauty, the loveliness of Eden. It is the contrast of this deep peace of Paradise with the storms of life, which gives to the fourth and fifth books of this poem a charm so irresistible, that not a few would sooner relinquish the two first books with all their sublimity, than part with these. It has sometimes been said, that the English language has no good pastoral poetry. We would ask, in what age or country has the pastoral reed breathed such sweet strains as are borne to us on 'the odoriferous wings of gentle gales' from Milton's Paradise?

We should not fulfil our duty, were we not to say one word on what has been justly celebrated the harmony of Milton's versification. His numbers have the prime charm of expressiveness. They vary with, and answer to the depth, or tenderness, or sublimity of his conceptions, and hold intimate alliance with the soul. Like Michael Angelo, in whose hands the marble was said to be flexible, he bends our language, which foreigners reproach with hardness, into whatever forms the subject demands. All the treasures of sweet and solemn sound are at his command. Words, harsh and discordant in the writings of less gifted men, flow through his poetry in a full stream of harmony. This power over language is not to be ascribed to Milton's musical ear. It belongs to the soul. It is a gift or exercise of genius, which has power to impress itself on whatever it touches; and finds or frames in sounds, motions, and material forms, correspondences and harmonies with its own fervid thoughts and feelings.

We close our remarks on Milton's poetry with observing, that it is characterised by seriousness. Great and various as are its merits, it does not discover all the variety of genius which we find in Shakspeare, whose imagination revelled equally in regions of mirth, beauty, and terror, now evoking spectres, now sporting with fairies, and now ascending the highest heaven of instruction.

Milton was cast on times too solemn and eventful, was called to take part in transactions too perilous, and had too perpetual need of the presence of high thoughts and motives, to indulge himself in light and gay creations, even had his genius been more flexible and sportive. But Milton's poetry, though habitually serious, is always healthful, and bright, and vigorous. It has no gloom. He took no pleasure in drawing dark pictures of life; for he knew by experience, that there is a power in the soul to transmute calamity into an occasion and nutriment of moral power and triumphant virtue. We find no where in his writings that whining sensibility and exaggeration of morbid feeling which makes so much of modern poetry effeminating. If he is not gay, he is not spirit-broken. His *L'Allegro* proves that he understood thoroughly the bright and joyous aspects of nature; and in his *Penseroso*, where he was tempted to accumulate images of gloom, we learn that the saddest views which he took of creation, are such as inspire only pensive musing or lofty contemplation.

From Milton's poetry, we turn to his *prose*. We rejoice that the dust is beginning to be wiped from his prose writings, and that the public are now learning, what the initiated have long known, that these contain passages hardly inferior to his best poetry, and that they are throughout marked with the same vigorous mind which gave us *Paradise Lost*. The attention to these works has been discouraged by some objections, on which we shall bestow a few remarks.

And first, it is objected to his prose writings, that the style is difficult and obscure, abounding in involutions, transpositions, and latinisms; that his protracted sentences exhaust and weary the mind, and too often yield it no better recompense than confused and indistinct perceptions. We mean not to deny that these charges have some grounds; but they seem to us much exaggerated; and when we consider that the difficulties of Milton's style have almost sealed up his prose writings, we cannot but lament the fastidiousness and effeminacy of modern readers. We know that simplicity and perspicuity are important qualities of style; but there are vastly nobler and more important ones; such as energy and richness, and in these Milton is not surpassed. The best style is not that which puts the reader most easily and in the shortest time in possession of a writer's naked thoughts; but that which is the truest image of a great intellect, which conveys fully and carries furthest into other souls the conceptions and feelings of a profound and lofty spirit. To be universally intelligible is not the highest merit. A great mind cannot without injurious constraint shrink itself to the grasp of common passive readers. Its natural movement is free, bold, and majestic; and it ought not to

be required to part with these attributes, that the multitude may keep pace with it. A full mind will naturally overflow in long sentences; and in the moment of inspiration, when thick-coming thoughts and images crowd on it, will often pour them forth in a splendid confusion, dazzling to common readers, but kindling to congenial spirits. There are writings which are clear through their shallowness. We must not expect in the ocean the transparency of the calm inland stream. For ourselves, we love what is called easy reading perhaps too well, especially in our hours of relaxation; but we love too to have our faculties tasked by master-spirits. We delight in long sentences, in which a great truth, instead of being broken up into numerous periods, is spread out in its full proportions, is irradiated with variety of illustration and imagery, is set forth in a splendid affluence of language, and flows, like a full stream, with a majestic harmony which fills at once the ear and the soul. Such sentences are worthy and noble manifestations of a great and far-looking mind, which grasps at once vast fields of thought, just as the natural eye takes in at a moment wide prospects of grandeur and beauty. We would not indeed have all compositions of this character. Let abundant provision be made for the common intellect. Let such writers as Addison (an honored name) 'bring down philosophy from heaven to earth.' But let inspired genius fulfil its higher function of lifting the prepared mind from earth to heaven. Impose on it no strict laws, for it is its own best law. Let it speak in its own language, in tones which suit its own ear. Let it not lay aside its natural port, or dwarf itself that it may be comprehended by the surrounding multitude. If not understood and relished now, let it place a generous confidence in other ages, and utter oracles which futurity will expound. We are led to these remarks not merely for Milton's justification, but because our times seem to demand them. Literature, we fear, is becoming too popular. The whole community is now turned into readers, and in this we heartily rejoice; and we rejoice too that so much talent is employed in making knowledge accessible to all. We hail the general diffusion of intelligence as the brightest feature of the present age. But good and evil are never disjoined; and one bad consequence of the multitude of readers is, that men of genius are too anxious to please the multitude, and prefer a present shout of popularity to that less tumultuous, but deeper, more thrilling note of the trump of fame, which resounds and grows clearer and louder through all future ages.

"We now come to a much more serious objection to Milton's prose writings, and that is, that they are disfigured by party spirit, coarse invective, and controversial asperity; and here we are prepared to

say, that there are passages in these works which every admirer of his character must earnestly desire to expunge. Milton's alleged virulence was manifested towards private and public foes. The first, such as Salmasius and Mortu, deserved no mercy; they poured out on his spotless character torrents of calumny, charging him with the blackest vices of the heart and the foulest enormities of the life. It ought to be added, that the manners and spirit of Milton's age justified a retaliation on such offenders, which the more courteous, and, we will hope, more Christian spirit of the present times will not tolerate. Still we mean not to be his apologists. Milton, raised as he was above his age, and fortified with the consciousness of high virtue, ought to have been both to his own and future times an example of Christian equanimity. In regard to the public enemies whom he assailed, we mean the despots in church and state, and the corrupt institutions which had stirred up a civil war, the general strain of his writings, though strong and stern, must exalt him, notwithstanding his occasional violence, among the friends of civil and religious liberty. That liberty was in peril. Great evils were struggling for perpetuity, and could only be broken down by great power. Milton felt that interests of infinite moment were at stake; and who will blame him for binding himself to them with the whole energy of his great mind, and for defending them with fervor and vehemence? We must not mistake Christian benevolence, as if it had but one voice, that of soft entreaty. It can speak in piercing and awful tones. There is constantly going on in our world a conflict between good and evil. The cause of human nature has always to wrestle with foes. All improvement is a victory won by struggles. It is especially true of those great periods which have been distinguished by revolutions in government and religion, and from which we date the most rapid movements of the human mind, that they have been signalised by conflict. Thus Christianity convulsed the world and grew up amidst storms; and the reformation of Luther was a signal to universal war; and Liberty in both worlds has encountered opposition, over which she has triumphed only through her own immortal energies. At such periods, men gifted with great power of thought and loftiness of sentiment are especially summoned to the conflict with evil. They hear, as it were, in their own magnanimity and generous aspirations, the voice of a divinity; and thus commissioned, and burning with a passionate devotion to truth and freedom, they must and will speak with an indignant energy; and they ought not to be measured by the standard of ordinary men in ordinary times. Men of natural softness and timidity, of a sincere but effeminate virtue, will be apt to look on these bolder, harder spirits, as violent, perturbed, and uncharitable;

and the charge will not be wholly groundless. But that deep feeling of evils, which is necessary to effectual conflict with them, and which marks God's most powerful messengers to mankind, cannot breathe itself in soft and tender accents. The deeply moved soul will speak strongly, and ought to speak so as to move and shake nations.

We have offered these remarks as strongly applicable to Milton. He revered and loved human nature, and attached himself to its great interests with a fervor of which only such a mind was capable. He lived in one of those solemn periods which determine the character of ages to come. His spirit was stirred to its very centre by the presence of danger. He lived in the midst of the battle. That the ardor of his spirit sometimes passed the bounds of wisdom and charity, and poured forth unwarrantable invective, we see and lament. But the purity and loftiness of his mind break forth amidst his bitterest invectives. We see a noble nature still. We see that no feigned love of truth and freedom was a covering for selfishness and malignity. He did indeed love and adore uncorrupted religion, and intellectual liberty, and let his name be enrolled among their truest champions.

Milton has told us in his own noble style, that he entered on his principal controversy with episcopacy reluctantly, and only through a deep conviction of duty. The introduction to the second book of his '*Reasons of Church Government*,' shows us the workings of his mind on this subject, and is his best vindication from the charge we are now repelling. He says—

'Surely to every good and peaceable man, it must in nature needs be a hateful thing to be the displeaser and molester of thousands; much better would it like him, doubtless, to be the messenger of gladness and contentment, which is his chief intended business to all mankind, but that they resist and oppose their own true happiness. But when God commands to take the trumpet, and blow a dolorous or a jarring blast, it lies not in man's will what he shall say, or what he shall conceal. * * * This I foresee, that should the church be brought under heavy oppression, and God have given me ability the while to reason against that man that should be the author of so foul a deed; or should she, by blessing from above on the industry and courage of faithful men, change this her distracted estate into better days, without the least furtherance or contribution of those few talents, which God at that present had lent me; I foresaw what stories I should hear within myself, all my life after, of discourage and reproach. Timorous and ungrateful, the church of God is now again at the foot of her insulting enemies, and thou bewailest; what matters it for thee or thy bewailing? When time was, thou couldest not find a syllable of all that thou hast read or studied to utter in her behalf. Yet ease and leisure was given thee for thy retired thoughts, out of the sweat of other men. Thou hadst the diligence, the parts, the language of a man, if a vain subject were to be adorned or beautified; but when the cause of God and his church was to be pleaded, for which purpose that tongue was given thee which thou hast, God listeth if he could hear thy voice among his true servants.'

thou wert dumb as a beast : from henceforward be that which thine own brutish silence hath made thee. * * * But now by this little diligence, mark what a privilege I have gained with good men and saints, to claim my right of lamenting the tribulations of the church, if she should suffer, when others that have ventured nothing for her sake have not the honor to be admitted mourners. But if she lift up her drooping head and prosper among those that have something more than wished her welfare, I have my charter and freehold of rejoicing to me and my heirs. Concerning therefore this wayward subject against prelaty, the touching whereof is so distasteful and disquietous to a number of men, as by what hath been said I may deserve of charitable readers to be credited, that neither envy nor gall hath entered me on this controversy, but the enforcement of conscience only, and a preventive fear lest the omitting of this duty should be against me, when I would store up to myself the good provision of peaceful hours.'—Vol. i. p. 115—117.*

He then goes on to speak of his consciousness of possessing great poetical powers, which he was most anxious to cultivate. Of these he speaks thus magnificently.

'These abilities, wheresoever they be found, are the inspired gift of God rarely bestowed, but yet to some (though most abuse) in every nation ; and are of power,—to inbreed and cherish in a great people the seeds of virtue, and public civility ; to allay the perturbations of the mind, and set the affections in right tune ; to celebrate in glorious and lofty hymns the throne and equipage of God's Almightyness, and what he works, and what he suffers to be wrought with high providence in his church ; to sing victorious agonies of martyrs and saints, the deeds and triumphs of just and pious nations, doing valiantly through faith against the enemies of Christ ; to deplore the general relapses of kingdoms and states from justice and God's true worship ; lastly, whatsoever in religion is holy and sublime, in virtue amiable or grave, whatsoever hath passion or admiration in all the changes of that which is called fortune from without ; or the wily subtleties and reflexes of man's thoughts from within ; all these things with a solid and treatable smoothness to paint out and describe.'—Vol. i. p. 120.

He then gives intimations of his having proposed to himself a great poetical work ; 'a work,' he says,

'Not to be raised from the heat of youth, or the vapours of wine, like that which flows at waste from the pen of some vulgar amouirist, or the trencher fury of a rhyming parasite ; nor to be obtained by the invocation of dame memory and her siren daughters, but by devout prayer to that eternal spirit, who can enrich with all utterance and knowlege, and sends out his seraphim with the hallowed fire of his altar, to touch and purify the lips of whom he pleases.'—Vol. i. p. 122.

He then closes with a passage, showing from what principles he forsook these delightful studies for controversy.

'I trust hereby to make it manifest with what small willingness I endure to interrupt the pursuit of no less hopes than these, and leave a calm and pleasing solitariness, fed with cheeriul and confident thoughts, to embark

¹ From the introduction to the second book of 'The Reason of Church Government,' &c. Vol. i. p. 114, &c. of Symmons's edition of Milton's Prose Works, to which all our references are made.

in a troubled sea of noises and hearse disputes, put from beholding the bright countenance of truth in the quiet and still air of delightful studies. * * * But were it the meanest under-service, if God by his secretary conscience enjoin it, it were sad for me if I should draw back; for me especially, now when all men offer their aid to help, ease and lighten the difficult labors of the church, to whose service, by the intentions of my parents and friends I was destined of a child, and in mine own resolutions; till coming to some maturity of years, and perceiving what tyranny had invaded the church, that he who would take orders must subscribe slave, and take an oath withal, which unless he took with a conscience that would retch, he must either strait perjure, or split his faith; I thought it better to prefer a blameless silence before the sacred office of speaking, bought and begun with servitude and forswearing.'—Vol. i. p. 123.

These passages, replete with Milton's genius and greatness of soul, show us the influences and motives under which his prose works were written, and help us to interpret passages which, if taken separately, might justify us in ascribing to him a character of excessive indignation and scorn.

Milton's most celebrated prose work is his 'Areopagitica, or a Speech for the Liberty of Unlicensed Printing;' a noble work indeed, a precious manual of freedom, an arsenal of immortal weapons for the defence of man's highest prerogative, intellectual liberty. His 'Reformation in England' and 'Reasons of Church Government,' are the most important theological treatises published during his life. They were his earliest prose compositions, and thrown off with much haste, and on these accounts are more chargeable with defects of style than any other of his writings. But these, with all their defects, abound in strong and elevated thought, and in power and felicity of expression. Their great blemish is an inequality of style, often springing from the conflict and opposition of the impulses under which he wrote. It is not uncommon to find in the same sentence his affluent genius pouring forth magnificent images and expressions, and suddenly his deep scorn for his opponents, suggesting and throwing into the midst of this splendor, sarcasms and degrading comparisons altogether at variance with the general strain. From this cause, and from negligence, many powerful passages in his prose writings are marred by an incongruous mixture of unworthy allusions and phrases.—In the close of his first work, that on 'Reformation in England,' he breaks out into an invocation and prayer to the Supreme Being, from which we extract a passage containing a remarkable intimation of his having meditated some great poetical enterprise from his earliest years, and giving full promise of that grandeur of thought and language which characterises *Paradise Lost*. Having 'lifted up his hands to that eternal and propitious throne, where nothing is readier than grace and refuge to the distresses of mortal suppliants,' and besought God to perfect the

work of civil and religious deliverance begun in England, he proceeds thus :

‘Then, amidst the hymns and hallelujahs of saints, *some one may perhaps be heard* offering at high strains in new and lofty measures, to sing and celebrate thy divine mercies and marvellous judgments in this land throughout all ages ; whereby this great and warlike nation, instructed and inured to the fervent and continual practice of truth and righteousness, and casting far from her the rags of her old vices, may press on hard to that high and happy emulation to be found the soberest, wisest, and most Christian people, at that day, when Thou, the eternal and shortly expected King, shalt open the clouds to judge the several kingdoms of the world, and distributing national honors and rewards to religious and just common-wealths, shalt put an end to all earthly tyrannies, proclaiming thy universal and mild monarchy through heaven and earth ; where they undoubtedly, that by their labors, counsels, and prayers, have been earnest for the common good of religion and their country, shall receive above the inferior orders of the blessed, the regal addition of principalities, legions, and thrones into their glorious titles ; and in supereminence of beatific vision, progressing the dateless and irrevoluble circle of eternity, shall clasp inseparable hands with joy and bliss, in over-measure for ever.’—Vol. i. pp. 58, 59.

We have not time to speak of Milton's political treatises. We close our brief remarks on his prose writings, with recommending them to all, who can enjoy great beauties in the neighborhood of faults, and who would learn the compass, energy, and richness of our language ; and still more do we recommend them to those who desire to nourish in their breasts magnanimity of sentiment and an unquenchable love of freedom. They bear the impress of that seal, by which genius distinguishes its productions from works of learning and taste. The great and decisive test of genius is, that it calls forth *power* in the souls of others. It not merely gives knowlege, but breathes energy. There are authors, and among these Milton holds the highest rank, in approaching whom we are conscious of an access of intellectual strength. A ‘virtue goes out’ from them. We discern more clearly, not merely because a new light is thrown over objects, but because our own vision is strengthened. Sometimes a single word, spoken by the voice of genius, goes far into the heart. A hint, a suggestion, an undefined delicacy of expression, teaches more than we gather from volumes of less gifted men. The works which we should chiefly study, are not those which contain the greatest fund of knowlege, but which raise us into sympathy with the intellectual energy of the author, and in which a great mind multiplies itself, as it were, in the reader. Milton's prose works are imbued as really, if not as thoroughly, as his poetry, with this quickening power, and they will richly reward those who are receptive of this influence.

We now leave the writings of Milton to offer a few remarks on

his *moral* qualities. His moral character was as strongly marked as his intellectual, and it may be expressed in one word, *magnanimity*. It was in harmony with his poetry. He had a passionate love of the higher, more commanding, and majestic virtues, and fed his youthful mind with meditations on the perfection of a human being. In a letter written to an Italian friend before his thirtieth year, and translated by Hayley, we have this vivid picture of his aspirations after virtue.

‘As to other points, what God may have determined for me I know not; but this I know, that if he ever instilled an intense love of moral beauty into the breast of any man, he has instilled it into mine. Ceres in the fable pursued not her daughter with a greater keenness of inquiry, than I day and night the idea of perfection. Hence, wherever I find a man despising the false estimates of the vulgar, and daring to aspire in sentiment, language and conduct, to what the highest wisdom, through every age, has taught us as most excellent, to him I unite myself by a sort of necessary attachment; and if I am so influenced by nature or destiny, that by no exertion or labors of my own I may exalt myself to this summit of worth and honor, yet no powers of heaven or earth will hinder me from looking with reverence and affection on those who have thoroughly attained this glory, or appeared engaged in the successful pursuit of it.’

His *Comus* was written in his twenty-sixth year; and on reading this exquisite work our admiration is awakened, not so much by observing how the whole spirit of poetry had descended on him at that early age, as by witnessing how his whole youthful soul was penetrated, awed and lifted up by the austere charms, ‘the radiant light,’ the invincible power, the celestial peace of saintly virtue. He revered moral purity and elevation, not only for its own sake, but as the inspirer of intellect, and especially of the higher efforts of poetry. ‘I was confirmed,’ he says, in his usual noble style,

‘I was confirmed in this opinion, that he who would not be frustrate of his hope to write well hereafter in laudable things, ought himself to be a true poem; that is, a composition and pattern of the best and honorablest things; not presuming to sing of high praises of heroic men, or famous cities, unless he have in himself the experience and the practice of all that which is praiseworthy.’—Vol. i. p. 224.

We learn from his works, that he used his multifarious reading to build up within himself this reverence for virtue. Ancient history, the sublime musings of Plato, and the heroic self-abandonment of chivalry, joined their influences with prophets and apostles, in binding him ‘everlastingly in willing homage’ to the great, the honorable, and the lovely in character. A remarkable passage to this effect we quote from his account of his youth.

‘I betook me among those lofty fables and romances, which recount in solemn cantos the deeds of knighthood founded by our victorious kings, and from hence had in renown over all Christendom. There I read it in the

oath of every knight, that he should defend to the expense of his best blood, or of his life, if it so befel him, the honor and chastity of virgin or matron; from whence even then I learned what a noble virtue chastity sure must be, to the defence of which so many worthies, by such a dear adventure of themselves, had sworn; * * * So that even these books, which to many others have been the fuel of wantonness and loose living, I cannot think how, unless by divine indulgence, proved to me so many incitements, as you have heard, to the love and steadfast observation of virtue.'—*Ibid.*

All Milton's habits were expressive of a refined and self-denying character. When charged by his unprincipled slanderers with licentious habits, he thus gives an account of his morning hours.

'Those morning haunts are where they should be, at home; not sleeping, or concocting the surfeits of an irregular feast, but up and stirring, in winter often ere the sound of any bell awake men to labor, or to devotion; in summer as oft with the bird that first rouses, or not much tardier, to read good authors, or cause them to be read, till the attention be weary, or memory have its full fraught; then with useful and generous labors preserving the body's health and hardiness to render lightsome, clear, and not lumpish obedience to the mind, to the cause of religion, and our country's liberty, when it shall require firm hearts in sound bodies to stand and cover their stations, rather than to see the ruin of our protestation, and the enforcement of a slavish life.'—Vol. i. p. 220.

We have enlarged on the strictness and loftiness of Milton's virtue, not only from our interest in the subject, but that we may put to shame and silence those men who make genius an apology for vice, and take the sacred fire, kindled by God within them, to inflame men's passions, and to minister to a vile sensuality.

We see Milton's greatness of mind in his fervent and constant attachment to liberty. Freedom in all its forms and branches was dear to him, but especially freedom of thought and speech, of conscience and worship, freedom to seek, profess and propagate truth. The liberty of ordinary politicians, which protects men's outward rights, and removes restraints to the pursuit of property and outward good, fell very short of that, for which Milton lived and was ready to die. The tyranny which he hated most, was that which broke the intellectual and moral power of the community. The worst feature of the institutions which he assailed was, that they fettered the mind. He felt within himself, that the human mind had a principle of perpetual growth, that it was essentially diffusive and made for progress, and he wished every chain broken that it might run the race of truth and virtue with increasing ardor and success. This attachment to a spiritual and refined freedom, which never forsook him in the hottest controversies, contributed greatly to protect his genius, imagination, taste, and sensibility, from the withering and polluting influences of public station and of the rage of parties. It threw a hue of poetry over politics, and gave a sublime reference to his service of the

commonwealth. The fact that Milton, in that stormy day, and amidst the trials of public office, kept his high faculties undepraved, was a proof of no common greatness. Politics, however they make the intellect active, sagacious, and inventive, within a certain sphere, generally extinguish its thirst for universal truth, paralyse sentiment and imagination, corrupt the simplicity of the mind, destroy that confidence in human virtue, which lies at the foundation of philanthropy and generous sacrifices, and end in cold and prudent selfishness. Milton passed through a revolution, which, in its last stages and issue, was peculiarly fitted to damp enthusiasm, to scatter the visions of hope, and to infuse doubts of the reality of virtuous principle; and yet the ardor, and moral feeling, and enthusiasm of his youth came forth unhurt, and even exalted from the trial.

Before quitting the subject of Milton's devotion to liberty, it ought to be recorded, that he wrote his celebrated 'Defence of the People of England' after being distinctly forewarned by his physicians, that the effect of this exertion would be the utter loss of sight. His reference to this part of his history in a short poetical effusion is too characteristic to be withheld. It is inscribed to Cyriac Skinner, the friend to whom he appears to have confided his lately-discovered 'Treatise on Christian Doctrine.'

'Cyriac, this three years day these eyes, though clear,
To outward view, of blemish or of spot,
Bereft of light their seeing have forgot,
Nor to their idle orbs doth sight appear
Of sun, or moon, or star, throughout the year,
Or man, or woman. Yet I argue not
Against Heaven's hand or will, nor bate a jot
Of heart or hope; but still bear up and steer
Right onward. What supports me, dost thou ask?
The conscience, Friend, to have lost them overply'd
In liberty's defence, my noble task,
Of which all Europe rings from side to side.
This thought might lead me through the world's vain mask,
Content though blind, had I no better guide.'—*Sonnet XXII.*

We see Milton's magnanimity in the circumstances under which *Paradise Lost* was written. It was not in prosperity, in honor, and amidst triumphs, but in disappointment, desertion, and in what the world calls disgrace, that he composed that work. The cause, with which he had identified himself, had failed. His friends were scattered; liberty was trodden under foot; and her devoted champion was a by-word among the triumphant royalists. But it is the prerogative of true greatness to glorify itself in adversity, and to meditate and execute vast enterprises in defeat. Milton, fallen in outward condition, afflicted with blindness, disappointed in his best hopes, applied himself with characteristic energy to the sublimest achievement of intellect, solacing himself

with great thoughts, with splendid creations, and with a prophetic confidence, that however neglected in his own age, he was framing in his works a bond of union and fellowship with the illustrious spirits of a brighter day. We delight to contemplate him in his retreat and last years. To the passing spectator, he seemed fallen and forsaken, and his blindness was reproached as a judgment from God. But though sightless, he lived in light. His inward eye ranged through universal nature, and his imagination shed on it brighter beams than the sun. Heaven, and Hell, and Paradise, were open to him. He visited past ages, and gathered round him ancient sages and heroes, prophets and apostles, brave knights and gifted bards. As he looked forward, ages of liberty dawned and rose to his view, and he felt that he was about to bequeath to them an inheritance of genius 'which would not fade away,' and was to live in the memory, reverence and love of remotest generations.

We have enlarged on Milton's character not only from the pleasure of paying that sacred debt, which the mind owes to him who has quickened and delighted it, but from an apprehension that Milton has not yet reaped his due harvest of esteem and veneration. The mists, which the prejudices and bigotry of Johnson spread over his bright name, are not yet wholly scattered, though fast passing away. We wish not to disparage Johnson. We could find no pleasure in sacrificing one great man to the manes of another. But we owe it to Milton and to other illustrious names to say, that Johnson has failed of the highest end of biography, which is to give immortality to virtue, and to call forth fervent admiration towards those who have shed splendor on past ages. We acquit Johnson, however, of intentional misrepresentation. He did not and could not appreciate Milton. We doubt whether two other minds having so little in common as those of which we are now speaking, can be found in the higher walks of literature. Johnson was great in his own sphere, but that sphere was comparatively 'of the earth;' whilst Milton's was only inferior to that of angels. It was customary in the day of Johnson's glory to call him a Giant, to class him with a mighty but still an earth-born race. Milton we should rank among Seraphs. Johnson's mind acted chiefly on man's actual condition, on the realities of life, on the springs of human action, on the passions which now agitate society, and he seems hardly to have dreamed of a higher state of the human mind than was then exhibited. Milton, on the other hand, burned with a deep yet calm love of moral grandeur and celestial purity. He thought not so much of what man is, as of what he might become. His own mind was a revelation to him of a higher condition of humanity, and to promote this he

thirsted and toiled for freedom, as the element for the growth and improvement of his nature.—In religion Johnson was gloomy and inclined to superstition, and on the subject of government leaned towards absolute power; and the idea of reforming either never entered his mind but to disturb and provoke it. The church and the civil polity under which he lived seemed to him perfect, unless he may have thought that the former would be improved by a larger infusion of Romish rites and doctrines, and the latter by an enlargement of the royal prerogative. Hence a tame acquiescence in the present forms of religion and government marks his works. Hence we find so little in his writings, which is electric and soul-kindling, and which gives the reader a consciousness of being made for a state of loftier thought and feeling than the present. Milton's whole soul, on the contrary, revolted against the maxims of legitimacy, hereditary faith, and servile reverence for established power. He could not brook the bondage to which men had bowed for ages. 'Reformation' was the first word of public warning which broke from his youthful lips, and the hope of it was a fire in his aged breast. The difference between Milton and Johnson may be traced not only in these great features of mind, but in their whole characters. Milton was refined and spiritual in his habits, temperate almost to abstemiousness, and refreshed himself after intellectual effort by music. Johnson inclined to more sensual delights. Milton was exquisitely alive to the outward creation, to sounds, motions, and forms, to natural beauty and grandeur. Johnson, through defect of physical organisation, if not through deeper deficiency, had little susceptibility of these pure and delicate pleasures, and would not have exchanged the Strand for the vale of Tempe or the gardens of the Hesperides. How could Johnson be just to Milton! The comparison, which we have instituted, has compelled us to notice Johnson's defects. But we trust we are not blind to his merits. His stately march, his pomp and power of language, his strength of thought, his reverence for virtue and religion, his vigorous logic, his practical wisdom, his insight into the springs of human action, and the solemn pathos which occasionally pervades his descriptions of life and his references to his own history, command our willing admiration. That he wanted enthusiasm, and creative imagination, and lofty sentiment, was not his fault. We do not blame him for not being Milton. We love intellectual power in all its forms, and delight in the variety of mind. We blame him only, that his passions, prejudices, and bigotry engaged him in the unworthy task of obscuring the brighter glory of one of the most gifted and virtuous men. We would even treat what we deem the faults of Johnson with a tenderness approaching respect; for they were results, to a degree

which man cannot estimate, of a diseased, irritable, nervous, unhappy physical temperament, and belonged to the body more than to the mind. We only ask the friends of genius not to put their faith in Johnson's delineations of it. His biographical works are tinged with his notoriously strong prejudices, and of all his 'Lives,' we hold that of Milton to be the most apocryphal.

We here close our general remarks on Milton's intellectual and moral qualities. We venerate him as a man of genius; but still more as a man of magnanimity and Christian virtue; who regarded genius and poetry as sacred gifts, imparted to him not to amuse men, or to build up a reputation, but that he might quicken and call forth what was great and divine in his fellow-creatures, and might secure the only true fame, the admiration of minds which his writings were to kindle and exalt.

We come now to the examination of the newly-discovered 'Treatise on Christian Doctrine.' This work, we have said, owes its chief interest to the character of its author. From its very nature, it cannot engage and fix general attention. It consists very much of collections of texts of Scripture, which, however exciting in their proper places, are read with little thought or emotion when taken from their ordinary connexion, and marshalled under systematic heads. Milton aims to give us the doctrines of revelation in its own words. We have them in a phraseology long familiar to us, and we are disappointed; for we expected to see them, not in the language of the Bible, but as existing in the mind of Milton, modified by his peculiar intellect and sensibility, combined and embodied with his various knowledge, illustrated by the analogies, brightened by the new lights, and clothed with the associations with which they were surrounded by this gifted man. We hoped to see these doctrines as they were viewed by Milton in his moments of solemn feeling and deep contemplation, when they pervaded and moved his whole soul. Still there are passages in which Milton's mind is laid open to us. We refer to the parts of the work, where the peculiarity of his opinions obliges him to state his reasons for adopting them; and these we value highly, for the vigor and independence of intellect with which they are impressed. The work is plain and unambitious in style. Its characteristics are a calm earnestness, and that profound veneration for Scripture, which certain denominations of Christians, who have little congeniality with Milton, seem to claim as a monopoly.

His introduction is worthy every man's attention, as a deliberate, mild assertion of the dearest right of human nature, that of free inquiry.

'If I communicate the result of my inquiries to the world at large; if,

as God is my witness, it be with a friendly and benignant feeling towards mankind, that I readily give as wide a circulation as possible to what I esteem my best and richest possession, I hope to meet with a candid reception from all parties, and that none at least will take unjust offence, even though many things should be brought to light, which will at once be seen to differ from certain received opinions. I earnestly beseech all lovers of truth not to cry out that the church is thrown into confusion by that freedom of discussion and inquiry which is granted to the schools, and ought certainly to be refused to no believer, since we are ordered to *prove all things*, and since the daily progress of the light of truth is productive far less of disturbance to the church, than of illumination and edification.'—Vol. i. pp. 5, 6.

'It has also been my object to make it appear from the opinions I shall be found to have advanced, whether new or old, of how much consequence to the Christian religion is the liberty, not only of winnowing and sifting every doctrine, but also of thinking and even writing respecting it, according to our individual faith and persuasion; an inference which will be stronger in proportion to the weight and importance of those opinions, or rather in proportion to the authority of Scripture, on the abundant testimony of which they rest. Without this liberty there is neither religion nor gospel—force alone prevails,—by which it is disgraceful for the Christian religion to be supported. Without this liberty we are still enslaved not indeed, as formerly, under the divine law, but, what is worst of all, under the law of man, or to speak more truly, under a barbarous tyranny.'—Vol. i. pp. 7, 8.

On that great subject, the character of God, Milton has given nothing particularly worthy of notice, except that he is more disposed than Christians in general, to conceive of the Supreme Being under the forms and affections of human nature.

'If God habitually assign to himself the members and form of man, why should we be afraid of attributing to him what he attributes to himself, so long as what is imperfection and weakness, when viewed in reference to ourselves, be considered as most complete and excellent whenever it is imputed to God.'—Vol. i. p. 23.

Milton is not the first Christian who has thought to render the Supreme Being more interesting by giving him human shape. We doubt the wisdom of this expedient. To spiritualise our conceptions of him, seems to us the true process for strengthening our intimacy with him; for in this way only can we think of him as immediately present to our minds. As far as we give him a material form, we must assign to him a place, and that place will almost necessarily be a distant one, and thus we shall remove him from the soul which is his true temple. Besides, a definite form clashes with God's infinity, which is his supreme distinction, and on no account to be obscured; for strange as it may seem to those who know not their own nature, this incomprehensible attribute is that which above all things constitutes the correspondence or adaptation, if we may so speak, of God to the human mind.

In treating of God's efficiency, Milton strenuously maintains human freedom, in opposition to the Calvinistic doctrine of pre-

destination. He maintains, that God's decrees do not encroach on moral liberty; for our free agency is the very object decreed and predestined by the Creator. He maintains that some of the passages of Scripture, which speak of election, are to be understood of an election to outward privileges, not to everlasting life; and that in other texts, which relate to the future state, the election spoken of is not an arbitrary choice of individuals, but of that class or description of persons, be it large or small, who shall comply with the prescribed terms of salvation; in other words, it is a conditional, not an absolute election, and such that every individual, if he will, may be included in it. Milton has so far told us truth. We wish we could add, that he had thrown new light on free agency. This great subject has indeed baffled as yet the deepest thinkers, and seems now to be consigned with other sublime topics, under the sweeping denomination of metaphysics, to general neglect. But let it not be given up in despair. The time is coming, when the human intellect is to strike into new fields, and to view itself, and its Creator, and the universe, from new positions, and we trust that the darkness which has so long hung over our moral nature will be gradually dispersed. This attribute of free agency, through which an intelligent being is strictly and properly a cause, an agent, an originator, of moral good or moral evil, and not a mere machine, determined by outward influences or by a secret yet resistless efficiency of God, which virtually makes Him the author and only author of all human actions,—this moral freedom, which is the best image of the creative energy of the Deity, seems to us the noblest object of philosophical investigation. However questioned and darkened by a host of metaphysicians, it is recognised in the common consciousness of every human being. It is the ground of responsibility, the fountain of moral feeling. It is involved in all moral judgments and affections; and thus gives to social life its whole interest, whilst it is the chief tie between the soul and its Creator. The fact, that philosophers have attempted to discard free agency from their explanations of moral phenomena, and to subject all human action to necessity, to mechanical causes, or other extraneous influences, is proof enough, that the science of the mind has as yet penetrated little beneath the surface, that the depths of the soul are still unexplored.

Milton naturally passes from his chapter on the Supreme Being to the consideration of those topics, which have always been connected with this part of theology; we mean the character of Jesus Christ, and the nature of the Holy Spirit. All our readers are probably aware that Milton has here declared himself an anti-trinitarian, and strenuously asserted the strict and proper unity of

God. His chapter on 'The Son of God' is the most elaborate one in the work. His 'prefatory remarks' are highly interesting, as joining with a manly assertion of his right, an affectionate desire to conciliate the Christians from whom he differed.

'I cannot enter on subjects of so much difficulty as the *Son of God* and the *Holy Spirit*, without again premising a few introductory words. If indeed I were a member of the Church of Rome, which requires implicit obedience to its creed on all points of faith, I should have acquiesced from education or habit in its simple decree and authority, even though it denies that the doctrine of the Trinity, as now received, is capable of being proved from any passage of Scripture. But since I enrol myself among the number of those who acknowledge the word of God alone as the rule of faith, and freely advance what appears to me much more clearly deducible from the Holy Scriptures than the commonly received opinion, I see no reason why any one who belongs to the same Protestant or Reformed Church, and professes to acknowledge the same rule of faith as myself, should take offence at my freedom, particularly as I impose my authority on no one, but merely propose what I think more worthy of belief than the creed in general acceptance. I only entreat that my readers will ponder and examine my statements in a spirit which desires to discover nothing but the truth, and with a mind free from prejudice. For without intending to oppose the authority of Scripture, which I consider inviolably sacred, I only take on myself to refute human interpretations as often as the occasion requires, conformably to my right or rather to my duty as a man. If indeed those with whom I have to contend were able to produce direct attestation from heaven to the truth of the doctrine which they espouse, it would be nothing less than impiety to venture to raise, I do not say a clamor, but so much as a murmur against it. But inasmuch as they can lay claim to nothing more than human powers, assisted by that spiritual illumination which is common to all, it is not unreasonable that they should on their part allow the privileges of diligent research and free discussion to another inquirer, who is seeking truth through the same means and in the same way as themselves, and whose desire of benefiting mankind is equal to their own.'—Vol. i. pp. 103—105.

Milton teaches, that the Son of God is a distinct being from God, and inferior to him; that he existed before the world was made; that he is the first of the creation of God; and that afterwards, all other things were made by him, as the instrument or minister of his Father. He maintains, in agreement with Dr. Clarke, that the Holy Spirit is a person, an intelligent agent, but created and inferior to God. This opinion of Milton is the more remarkable, because he admits that before the time of Christ the Jews, though accustomed to the phrase Holy Spirit, never attached to it the idea of personality; and that both in the Old and the New Testament, it is often used to express God himself, or his power and agency. It is strange, that after these concessions he could have found a difficulty in giving a figurative interpretation to the few passages in the New Testament which speak of the Holy Spirit as a person.

We are unable within our limits to give a sketch of Milton's

strong reasoning against the Supreme Divinity of Jesus Christ. We must, however, pause a moment to thank God that he has raised up this illustrious advocate of the long obscured doctrine of the Divine Unity. We can now bring forward the three greatest and noblest minds of modern times, and we may add of the Christian era, as witnesses to that Great Truth, of which, in an humbler and narrower sphere, we desire to be the defenders. Our Trinitarian adversaries are perpetually ringing in our ears the names of Fathers and Reformers. We take Milton, Locke and Newton, and place them in our front, and want no others to oppose to the whole array of great names on the opposite side. Before these intellectual suns, the stars of self-named orthodoxy 'hide their diminished heads.' To these eminent men, God communicated such unusual measures of light and mental energy, that their names spring up spontaneously, when we think or would speak of the greatness of our nature. Their theological opinions were the fruits of patient, profound, reverent study of the Scriptures. They came to this work with minds not narrowed by a technical, professional education, but accustomed to broad views, to the widest range of thought. They were shackled by no party connexions. They were warped by no clerical ambition, and subdued by no clerical timidity. They came to this subject in the fulness of their strength, with free minds open to truth, and with unstained purity of life. They came to it in an age when the doctrine of the Trinity was instilled by education, and upheld by the authority of the church, and by penal laws. And what did these great and good men, whose intellectual energy and love of truth have made them the chief benefactors of the human mind,—what, we ask, did they discover in the Scriptures? a triple divinity? three infinite agents? three infinite objects of worship? three persons, each of whom possesses his own distinct offices, and yet shares equally in the godhead with the rest? No! Scripture joined with nature and with that secret voice in the heart, which even idolatry could not always stifle, and taught them to bow reverently before the One Infinite Father, and to ascribe to Him alone supreme, self-existent Divinity.—Our principal object in these remarks has been to show, that as far as great names are arguments, the cause of anti-trinitarianism, or of God's proper Unity, is supported by the strongest. But we owe it to truth to say, that we put little trust in these fashionable proofs. The chief use of great names in religious controversy is to balance and neutralise one another, that the unawed and unfettered mind may think and judge with a due self-reverence, and with a solemn sense of accountableness to God alone.

We have called Milton an anti-trinitarian. But we have no

desire to identify him with any sect. His mind was too independent and universal to narrow itself to human creeds and parties. He is supposed to have separated himself in his last years from all the denominations around him; and were he now living, we are not sure that he would find one to which he would be strongly attracted. He would probably stand first among that class of Christians, more numerous than is supposed, and we hope increasing, who are too jealous of the rights of the mind, and too dissatisfied with the clashing systems of the age, to attach themselves closely to any party; in whom the present improved state of theology has created a consciousness of defect, rather than the triumph of acquisition; who, however partial to their own creed, cannot persuade themselves that it is the ultimate attainment of the human mind, and that distant ages will repeat its articles as reverently as the Catholics do the decrees of Trent; who contend earnestly for free inquiry, not because all who inquire will think as they do, but because some at least may be expected to outstrip them, and to be guides to higher truth. With this nameless and spreading class we have strong sympathies. We want new light, and care not whence it comes; we want reformers worthy of the name; and we should rejoice in such a manifestation of Christianity, as would throw all present systems into obscurity.

We come now to a topic, on which Milton will probably startle a majority of readers. He is totally opposed, as were most of the ancient philosophers, to the doctrine of God's creating the universe out of nothing. He maintains, that there can be no action without a passive material on which the act is exerted, and that accordingly the world was framed out of a pre-existent matter. To the question, what and whence is this primary matter? he answers, it is from God, 'an efflux of the Deity.'—'It proceeded from God,' and consequently no additional existence was produced by creation, nor is matter capable of annihilation. A specimen of his speculations on this subject is given in the following quotation.

'It is clear then that the world was framed out of matter of some kind or other. For since action and passion are relative terms, and since, consequently, no agent can act externally, unless there be some patient, such as matter, it appears impossible that God could have created this world out of nothing; not from any defect of power on his part, but because it was necessary that something should have previously existed capable of receiving passively the exertion of the divine efficacy. Since, therefore, both Scripture and reason concur in pronouncing that all these things were made, not out of nothing, but out of matter, it necessarily follows that matter must either have always existed independently of God, or have originated from God at some particular point of time. That matter should have been always independent of God, (seeing that it is only a passive principle, dependent on the Deity, and subservient to him; and seeing, moreover, that as in number, considered abstractly, so also in time or eternity there is no

inherent force or efficacy,) that matter, I say, should have existed of itself from all eternity, is inconceivable. If on the contrary it did not exist from all eternity, it is difficult to understand from whence it derives its origin. There remains, therefore, but one solution of the difficulty, for which moreover we have the authority of Scripture, namely, that all things are of God.—Vol. i. pp. 236, 237.

This doctrine naturally led Milton to another, viz. that there is no ground for the supposed distinction between body and soul; for if matter is an 'efflux of the Deity,' it is plainly susceptible of intellectual functions. Accordingly our author affirms,

'That man is a living being, intrinsically and properly one and individual, not compound or separable, not, according to the common opinion, made up and framed of two distinct and different natures, as of soul and body,—but the whole man is soul, and the soul man, that is to say, a body, or substance individual, animated, sensitive, and rational.'—Vol. i. pp. 250, 251.

We here learn that a passage in *Paradise Lost*, which we have admired as poetry, was deemed by Milton sound philosophy.

'O Adam, one Almighty is, from whom
All things proceed, and up to him return,
If not depraved from good, created all
Such to perfection, *one first matter all*,
Indued with various forms, various degrees
Of substance, and in things that live, of life;
But more refined, more spiritous, and pure,
As nearer to him placed, or nearer tending,
Each in their several active spheres assign'd,
Till body up to spirit work, in bounds
Proportion'd to each kind. So from the root
Springs lighter the green stalk, from thence the leaves
More aery, last the bright consummate flower
Spirits odorous breathes; flowers and their fruit,
Man's nourishment, by gradual scale sublimed,
To vital spirits aspire, to animal,
To intellectual.'

Par. Lost, b. v. lines 469—483.

These speculations of Milton will be received in this age with more favor or with less aversion than in his own: for, from the time of Locke, the discussions of philosophers have tended to unsettle our notions of matter; and no man is hardy enough now to say what it is, or what it may not be. The idealism of Berkeley, though it has never organised a sect, has yet sensibly influenced the modes of thinking among metaphysicians; and the coincidence of this system with the theory of certain Hindoo philosophers, may lead us to suspect that it contains some great latent truth, of which the European and Hindoo intellect, so generally at variance, have caught a glimpse. Matter is indeed a Proteus, which escapes us at the moment we hope to seize it. Priestley was anxious to make the soul material; but for this purpose, he

was obliged to change matter from a substance into a power, that is, into no matter at all; so that he destroyed in attempting to diffuse it. We have thrown out these remarks, to rescue Milton's memory from the imputation, which he was the last man to deserve, of irreverence towards God; for of this some will deem him guilty in tracing matter to the Deity as its fountain. Matter, which seems to common people so intelligible, is still wrapt in mystery. We know it only by its relation to mind, or as an assemblage of powers to awaken certain sensations. Of its relation to God, we may be said to know nothing. Perhaps, as knowledge advances, we shall discover that the Creator is bound to his works by stronger and more intimate ties than we now imagine. We do not then quarrel with such suggestions as Milton's, though we cannot but wonder at the earnestness with which he follows out such doubtful speculations.

Milton next proceeds to the consideration of man's state in Paradise; and as marriage was the only social relation then subsisting, he introduces here his views of that institution, and of polygamy and divorce. These views show, if not the soundness, yet the characteristic independence of his mind. No part of his book has given such offence as his doctrine of the lawfulness of polygamy, and yet no where is he less liable to reproach. It is plain that his error was founded on his reverence for Scripture. He saw that polygamy was allowed to the best men in the Old Testament, to patriarchs before the law, who, he says, were the objects of God's special favor, and to eminent individuals in subsequent ages; and finding no prohibition of it in the New Testament, he believed that not only holy men would be traduced, but Scripture dishonored, by pronouncing it morally evil. We are aware that some will say that the practice is condemned in the New Testament; and we grant that it is censured by implication in these words of Christ, 'Whosoever shall put away his wife, except it be for fornication, and shall marry another, committeth adultery.'¹ But we believe it to be an indisputable fact, that although Christianity was first preached in Asia, which had been from the earliest ages the seat of polygamy, the Apostles never denounced it as a crime, and never required their converts to put away all wives but one. What then? some may say, 'are you too the advocates of the lawfulness of polygamy?' We answer, No. We consider our religion as decidedly hostile to this practice; and we add, what seems to us of great importance, that this hostility is not the less decided, because no express prohibition of polygamy is found in the New Testament: for Christianity is not a system of precise

¹ Matt. xix. 9.

legislation, marking out with literal exactness every thing to be done, and every thing to be avoided ; but an inculcation of broad principles, which it intrusts to individuals and to society to be applied according to their best discretion. It is through this generous peculiarity that Christianity is fitted to be a universal religion. Through this it can subsist and blend itself with all stages of society, and can live in the midst of abuses, which it silently and powerfully overcomes, but against which it would avail little, were it immediately to lift up the voice of denunciation. We all know that long-cherished corruptions, which have sent their roots through the whole frame of a community, cannot be torn up at once without dissolving society. To Christianity is committed the sublime office of eradicating all the errors and evils of the world ; but this it does by a process corresponding with man's nature, by working a gradual revolution in the mind, which in its turn works a safe and effectual revolution in manners and life. No argument, therefore, in favor of a practice can be adduced from the fact, that it is not explicitly reprobated in the New Testament. For example, Christianity went forth into communities where multitudes were held in slavery, and all ranks were ground and oppressed by despotism ; abuses on which the spirit of our religion frowns as sternly as on any which can be named. Yet Christianity did not command the master to free his slaves, or the despot to descend from his absolute throne ; but satisfied itself with proclaiming sublime truths in regard to God's paternal character and administration, and broad and generous principles of action : leaving to these the work of breaking every chain by a gradual, inward, irresistible influence, and of asserting the essential equality and unalienable rights of the whole human race.—We cannot leave this topic, without adding, that not only Milton's error on polygamy, but many other noxious mistakes, have resulted from measuring Christianity by the condition of the primitive church, as if *that* were the standard of faith and practice, as if every thing allowed then were wise and good, as if the religion were then unfolded in all its power and extent. The truth is, that Christianity was then in its infancy: The Apostles communicated its great truths to the rude minds of Jews and Heathens ; but the primitive church did not and could not understand all that was involved in those principles, all the applications of which they are susceptible, all the influences they were to exert on the human mind, all the combinations they were to form with the new truths which time was to unfold, all the new lights in which they were to be placed, all the adaptations to human nature and to more advanced states of society, which they were progressively to manifest. In the first age the religion was administered with a wise and merciful conformity to the capaci-

ties of its recipients. With the progress of intelligence and the development of the moral faculties, Christianity is freeing itself, and ought to be freed, from the local, temporary and accidental associations of its childhood. Its great principles are coming forth more distinctly and brightly, and condemning abuses and errors which have passed current for ages. This great truth, for such we deem it, that Christianity is a growing light, and that it must be more or less expounded by every age for itself, was not sufficiently apprehended by Milton; nor is it now, understood as it will be. For want of apprehending it, Christianity is administered now too much as it was in ages when nothing of our literature, philosophy, and spirit of improvement existed; and consequently it does not, we fear, exert that entire and supreme sway over strong and cultivated minds which is its due, and which it must one day obtain.

Milton has connected with polygamy the subject of divorce, on which he is known to have differed from many Christians. He strenuously maintains in the work under review, and more largely in other treatises, that the violation of the marriage-bed is not the sole ground of divorce, but that 'the perpetual interruption of peace and affection by mutual differences and unkindness is a sufficient reason' for dissolving the conjugal relation. On this topic we cannot enlarge.

We now arrive at that part of Milton's work, in which his powerful mind might have been expected to look beyond the prevalent opinions of his day, but in which he has followed the beaten road almost without deviation, seldom noticing difficulties, and hardly seeming to know their existence. We refer to the great subjects of the moral condition of mankind, and of redemption by Jesus Christ. The doctrine of original sin he has assumed as true, and his faith in it was evidently strengthened by his doctrine of the identity of the soul with the body, in consequence of which he teaches that souls are propagated from parents to children, and not immediately derived from God, and that they are born with an hereditary taint, just as the body contracts hereditary disease. It is humiliating to add, that he supports this doctrine of the propagation of sin by physical contagion, on the ground that it relieves the Creator from the charge of originating the corruption which we are said to bring into life; as if the infinitely pure and good God could, by a covert agency, infect with moral evil the passive and powerless mind of the infant, and then absolve himself of the horrible work by imputing it to instruments of his own ordination! Milton does not, however, believe in total depravity, feeling that this would free men from guilt by taking away all

power ; and he therefore leaves us a portion of the divine image, not enough to give us a chance of virtue, but enough to take away excuse from sin. Such are the 'tender mercies' of theology ! With respect to Christ's mediation, he supposes that Christ saves us by bearing our punishment, and in this way satisfying God's justice. His views, indeed, are not expressed with much precision, and seem to have been formed without much investigation. On these great subjects, of human nature and redemption, we confess we are disappointed in finding the spirit of Milton satisfying itself with the degrading notions which prevailed around him. But we remember, that it is the order of Providence that the greatest minds should sympathise much with their age, and that they contribute the more to the progress of mankind, by not advancing too fast and too far beyond their cotemporaries. In this part of his work, Milton maintains that the death threatened to sin extends equally to body and soul, which indeed he was bound to do, as he holds the soul and body to be one ; and he then proceeds to defend with his usual power the necessary inference, that all consciousness is suspended between death and the resurrection. We have no faith in this doctrine, but we respect the courage with which he admits and maintains whatever can be fairly deduced from his opinions.

Having concluded the subject of redemption, he passes to what he calls 'man's renovation, or the change whereby the sinner is brought into a state of grace ;' and here, though he is not always perspicuous, yet he seldom deviates from what was then the beaten road. We owe it, however, to Milton to say, that although he sometimes approached, he never adopted Calvinism. All the distinguishing articles of that creed, total depravity, election, and reprobation, Christ dying for the elect only, irresistible grace, the perseverance of the saints, and justification by mere faith,—all are denied and opposed by him, and some with great strength. Swayed as Milton was by the age in which he lived, his spirit could not be subdued to the heart-withering faith of the Genevan school.

We now come to a subject in which Milton was deeply interested, we mean Christian liberty ; under which head may be included the discipline of the church, the power of ministers, and the rights of the people. To vindicate the liberty of Christians, and to secure them from all outward impositions and ordinances, he maintains that the whole Mosaic law is abolished, so that no part is binding on Christians ; a doctrine which may startle many who believe that the moral precepts of that law are as binding now as ever. But such persons differ little in reality from Milton, whose true meaning is, that these precepts bind Christians not

through the authority of Moses, which is wholly done away, but only because they are taken up and incorporated into Christianity, which is our only law, and which has set forth whatever was permanently valuable in Judaism in a more perfect form, and with more powerful sanctions.

As another branch of the liberty of Christians, he maintains, as we may well suppose, the right of every believer to consult the Scriptures, and to judge of them for himself. Not satisfied with this, he takes the ground of Quakerism, and maintains that the Christian, in addition to the Scriptures, has an inward guide, with which no human authority should interfere.

‘Under the Gospel we possess, as it were, a twofold scripture, one external, which is the written word, and the other internal, which is the Holy Spirit, written in the hearts of believers, according to the promise of God, and with the intent that it should by no means be neglected.’ Vol. ii. p. 172.—‘The external scripture’ . . . has been liable to frequent corruption, and in some instances has been corrupted, through the number and occasionally the bad faith of those by whom it has been handed down, the variety and discrepancy of the original manuscripts, and the additional diversity produced by subsequent transcripts and printed editions. But the Spirit which leads to truth cannot be corrupted, neither is it easy to deceive a man who is really spiritual.’ p. 173.—‘It is difficult to conjecture the purpose of Providence in committing the writings of the New Testament to such uncertain and variable guardianship, unless it were to teach us by this very circumstance, that the Spirit which is given to us is a more certain guide than Scripture, whom, therefore, it is our duty to follow.’ p. 174.—‘Hence it follows, that when an acquiescence in human opinions or an obedience to human authority in matters of religion is exacted, in the name either of the church or of the Christian magistrate, from those who are themselves led individually by the Spirit of God, this is in effect to impose a yoke not on man, but on the Holy Spirit itself.’ p. 176.

This, in words, is genuine Quakerism; but whether Milton understood by the Holy Spirit that *immediate* revelation, which forms the leading doctrine of that creed, we doubt. To this doctrine it may be objected, and we think Milton must have felt the objection, that it disparages and discourages our faculties, and produces inaction of mind, leading men to expect from a sudden flash from heaven the truth which we are taught to seek by the right use of our own powers. We imagine that Milton believed that the Holy Spirit works with and by our own understandings, and instead of superseding reason, invigorates and extends it. But this is not the only place where his precise views are obscured by general expressions, or by rapid and superficial notices of subjects.

In Milton’s views of the church and the ministry, we have other proofs of his construing the Scriptures in the manner most favorable to Christian liberty. He teaches that the universal Church

has no head but Christ, and that the power arrogated by popes, councils, and bishops, is gross usurpation. In regard to particular churches, he is a strict congregationalist. Each church, he says, is competent to its own government, and connected with others only by the bond of charity. No others are authorised to interfere with any of its concerns, but in the way of brotherly counsel.

'Every church consisting of the above parts,' (i. e. well instructed believers,) 'however small its numbers, is to be considered as in itself an integral and perfect church, so far as regards its religious rights; nor has it any superior on earth, whether individual, or assembly, or convention, to whom it can be lawfully required to render submission; inasmuch as no believer is out of its pale, nor any order or council of men whatever, has a greater right than itself to expect a participation in the written word and the promises, in the presence of Christ, in the presiding influence of the Spirit, and in those gracious gifts which are the reward of united prayer.'—Vol. ii. p. 193.

The choice of the minister, he says, belongs to the people. The minister, if possible, should serve the church gratuitously, and live by the labor of his own hands. This unpaid service he pronounces more noble and consonant to our Lord's example and that of the Apostles. In accordance with these views, he favors the idea of a church consisting of few members.

'All that pertains to the worship of God and the salvation of believers, all, in short, that is necessary to constitute a church, may be duly and orderly transacted in a particular church, within the walls of a private house, and where the numbers assembled are inconsiderable. Nay, such a church, when in compliance with the interested views of its pastor it allows of an increase of numbers beyond what is convenient, deprives itself in a great measure of the advantages to be derived from meeting in common.'—Vol. ii. p. 194.

He maintains that ministers are not to monopolise public instruction, or the administration of the ordinances; but that all Christians, having sufficient gifts, are to participate in these services.

'The custom of holding assemblies is to be maintained, not after the present mode, but according to the apostolical institution, which did not ordain that an individual, and he a stipendiary, should have the sole right of speaking from a higher place, but that each believer in turn should be authorised to speak, or prophesy, or teach, or exhort, according to his gifts; inasmuch that even the weakest among the brethren had the privilege of asking questions, and consulting the elders and more experienced members of the congregation.' Vol. ii. p. 203.—'Any believer is competent to act as an *ordinary minister*, according as convenience may require, provided only he be endowed with the necessary gifts; these gifts constituting his mission.' p. 153.—'If therefore it be competent to any believer *whatever* to preach the gospel, provided he be furnished with the requisite gifts, it is also competent to him to administer the right of baptism; inasmuch as the latter office is inferior to the former.' p. 157.—'With regard to the Lord's Supper also, it has been shown, in the preceding chapter, that all are entitled to participate in that rite, but that the privilege of dispensing the elements is confined to no particular man, or order of men.' p. 158.

We entirely accord with the spirit of freedom which these passages breathe ; but from some of the particular views we dissent. The great error of Milton lies in supposing that the primitive church was meant to be a model for all ages. But can we suppose that the church at its birth, when it was poor, persecuted, hemmed in by Judaism and Heathenism, supplied imperfectly with written rules and records, dependent for instruction chiefly on inspired teachers, and composed of converts who had grown up and been steeped in Jewish and Heathen errors,—can we imagine, that in these circumstances the church took a form which it ought to retain as sacred and unalterable, in its triumphs, and prosperity, and diffusion, and in ages of greater light and refinement ? We know, that in the first ages there were no ministers with salaries or edifices for public worship. Christians met in private houses, and sometimes in the obscurest they could find. On these occasions, the services were not monopolised by an individual, but shared by the fraternity ; nor is there a hint in the New Testament that the administration of the Lord's Supper and Baptism was confined to the minister. But in all this we have no rule for the present day. Indeed, it seems to us utterly repugnant to the idea of a universal religion, intended for all ages and nations, and for all the progressive states of society to the end of the world, to suppose that in its infancy it established an order of worship, instruction, and discipline, which was to remain inviolable in all future times. This doctrine of an inflexible form, seems to us servile, superstitious, and disparaging to Christianity. Our religion is too spiritual and inward, and cares too little about its exterior, to bind itself in this everlasting chain. The acknowledged indefiniteness of the New Testament in regard to this subject, is no mean proof of the enlarged and prospective wisdom of its founder. We believe that with the diffusion of liberal views the question will arise, whether our religion cannot be taught and administered in methods and forms more adapted, than those which now prevail, to its spirit and great design, to the principles of human nature, and to the condition and wants of society. Among the changes which may grow from this discussion, we do not anticipate the adoption of Milton's plan of sentencing ministers to earn their bread by the sweat of their brow ; for we think that we see no reasons in the general spread of knowledge for enlarging their means and opportunities of study and intellectual culture, that they may meet the increasing demand for more enlightened inculcation of Christian truth. At the same time, it seems to us not unlikely that, in conformity to Milton's suggestion, public instruction, instead of continuing to be a monopoly of ministers, may be extended freely to men

of superior intelligence and piety, and that the results of this arrangement may be the infusion of new life, power, and practical wisdom into religious teaching, and the substitut on of a more natural, free and various eloquence for the technical and monotonous mode of treating subjects, which clings so often and so obstinately to the performances of the pulpit.—Again, we do not expect, among the changes of forms and outward worship, that Christians, to meet our author's views, will shut their churches and meet in private houses; for large religious edifices and large congregations seem to us among the important means of collecting and interesting in Christianity the mass of the community. But perhaps narrower associations for religious improvement may be formed, in which the formalities of public worship will be relaxed, and Christians may reap the benefits of the more familiar and confidential meetings of the primitive converts. It is indeed a great question, how the public administration of Christianity, including modes of discipline, instruction, and worship, may be rendered more impressive and effectual. This field is almost untrodden; but if we read aright the signs of the times, the day for exploring it draws nigh.

We have said that whilst we dissent from some of Milton's views on the subject of our present remarks, we agree in their spirit. It was evidently the aim of all his suggestions to strip the clergy, as they are called, of that peculiar, artificial sanctity, with which superstition had long arrayed them, and which had made their simple, benignant office one of the worst instruments of ambition and despotism. We believe that this institution will never exert its true and full power on the church and on the world, until the childish awe, with which it has been viewed, shall be exchanged for enlightened esteem; and until men, instead of expecting from it certain mysterious, undefined influences, shall see in it a rational provision for conveying important truth, and for promoting virtue and happiness, not by magic, but according to the fixed laws of human nature.

The remainder of the 'Treatise on Christian Doctrine' furnished topics on which we should willingly remark; but we have only time to glance at the opinions in which Milton differs from the majority. He rejects infant baptism, and argues against it with his usual earnestness and strength. He not only affirms with many other Christians, that the fourth commandment relating to the Sabbath is abolished with the rest of the Mosaic system, but maintains, what few have done, that under the Gospel no time is appointed for public worship, but that the observance of the first day of the week rests wholly on expediency, and on the agreement of Christians. He believes that Christ is to appear visibly for the

judgment of the world, and that he will reign a thousand years on earth, at the end of which period Satan will assail the church with an innumerable confederacy, and be overwhelmed with everlasting ruin. He speaks of the judgment as beginning with Christ's second advent, and as comprehending his whole government through the millennium, as well as the closing scene, when sentence will be pronounced on evil angels, and on the whole human race.—We have now given, we believe, all the peculiarities of Milton's faith. As for that large part of his work, in which he has accumulated scriptural proofs of doctrines and duties in which all Christians are agreed, its general tenor may be understood without further remarks.

It may now be asked, what is the value of this book? We prize it chiefly as a testimony to Milton's profound reverence for the Christian religion, and an assertion of the freedom and rights of the mind. We are obliged to say, that the work throws little new light on the great subjects of which it treats. Some will say, that this ought not to surprise us; for new light is not to be looked for in the department of theology. But if this be true, our religion may be charged with the want of adaptation to our nature in an essential point; for one of the most striking features of the human mind is its thirst for constantly enlarging knowledge, and its proneness to lose its interest in subjects which it has exhausted. The chief cause of Milton's failure was, that he sought truth too exclusively in the past, and among the dead. He indeed called no man master, and disclaimed the authority of Fathers, and was evidently dissatisfied with all the sects which had preceded or were spread around him. Still he believed in the perfection of the primitive church, and that Christianity, instead of being carried forward, was to be carried *back* to its original purity. To use his own striking language, 'the lovely form of truth,' which Christians at first embraced, 'had been hewn into a thousand pieces, like the mangled body of Osiris, and scattered to the four winds;' and consequently he believed, that the great duty of her friends was 'to gather up limb by limb, and bring together every joint and member.' In conformity with this doctrine, he acted too much as an eclectic theologian, culling something from almost every sect, and endeavoring to form an harmonious system from materials 'gathered from the four winds.' He would have done better, had he sought truth less in other minds, and more in the communion of his own soul with Scripture, Nature, God, and itself. The fact is, that the church, from its beginning, has been imperfect in knowledge and practice, and our business is not to rest in the past, but to use it as a means of a purer and brighter futurity. Christianity began to be corrupted at its birth, to be debased by earthly mixtures, as soon as it touched the earth. The seeds of that cor-

ruption which grew and shot up into the overshadowing despotism of papal Rome, were sown in the age of the Apostles, as we learn in the Epistles; and we infer from the condition of the world, that nothing but a stupendous moral miracle, subverting all the laws of the human mind, could have prevented their development. Who, that understands human nature, does not know that old associations are not broken up in a moment; that to minds plunged in a midnight of error, truth must gradually open like the dawning day; that old views will mingle with the new; that old ideas, which we wish to banish, will adhere to the old words to which they were formerly attached; and that the sudden and entire eradication of long-rooted errors would be equivalent to the creation of a new intellect? How long did the Apostles, under Christ's immediate tuition, withstand his instructions? Even Peter, after the miraculous illumination of the day of Pentecost, remained ignorant, until the message from Cornelius, of this glorious feature of Christianity, the abolition of the Jewish peculiarity, and the equal participation of the Gentiles with the Jews in the blessings of the Messiah. As soon as Christianity was preached it was blended with Judaism, which had power to neutralise the authority of Paul in many churches. In like manner, it soon began to be 'spoiled' of its simplicity 'by philosophy and science falsely so called,' and to be encumbered by pagan ceremonies. The first Christians were indeed brought into 'wonderful light,' if their Christian state be compared with the darkness from which they had emerged; but not if compared with the perfection of knowledge to which Christ came to exalt the human race. The earliest Fathers, as we learn from their works, were not receptive of large communications of truth. Their writings abound in peculiarities and marks of childish credulity, and betray that indistinctness of vision, which is experienced by men who issue from thick darkness into the light of day. In the ages of barbarism, which followed the fall of the Roman empire, Christianity, though it answered wise purposes of Providence, was more and more disguised and obscured. The Reformation was indeed a glorious ear; but glorious for its reduction of papal and clerical power, and for the partial liberation of the mind, rather than for immediate improvements of men's apprehensions of Christianity. Some of the reformers invented or brought back as injurious errors as those they overthrew. Luther's consubstantiation differed from the pope's transubstantiation by a syllable, and that was all the gain; and we may safely say, that transubstantiation was a less monstrous doctrine than the five points of Calvin. How vain, therefore, was Milton's search for 'the mangled Osiris,' for 'the lovely form and immortal features of truth,' in the history of the church!

Let us not be misunderstood, as if we would cut off the present age from the past. We mean not that Milton should have neglected the labors of his predecessors. He believed justly, that all the periods and generations of the human family are bound together by a sublime connexion, and that the wisdom of each age is chiefly a derivation from all preceding ages, not excepting the most ancient, just as a noble stream, through its whole extent and in its widest overflowings, still holds communication with its infant springs, gushing out perhaps in the depths of distant forests, or on the heights of solitary mountains. We only mean to say, that the stream of religious knowledge is to swell and grow through its whole course, and to receive new contributions from gifted minds in successive generations. We only regret that Milton did not draw more from the deep and full fountains of his own soul. We wish only to teach that antiquity was the infancy of our race, and that its acquisitions, instead of being rested in, are to bear us onward to new heights of truth and virtue. We mean not to complain of Milton for not doing more. He rendered to mankind a far greater service than that of a teacher of an improved theology. He taught and exemplified that spirit of intellectual freedom, through which all the great conquests of truth are to be achieved, and by which the human mind is to attain to a new consciousness of its sublime faculties, and to invigorate and expand itself for ever.

We here close our remarks on Milton. In offering this tribute, we have aimed at something higher than to express and gratify our admiration of an eminent man. We believe that an enlightened and exalted mind is a brighter manifestation of God than the outward universe; and we have set forth, as we have been able, the praises of an illustrious servant of the Most High, that, through him, glory may rebound to the Father of all spirits, the Fountain of all wisdom and magnanimous virtue. And still more, we believe that the sublime intelligence of Milton was imparted not for his own sake only, but to awaken kindred virtue and greatness in other souls. Far from regarding him as standing alone and unapproachable, we believe that he is an illustration of what all, who are true to their nature, will become in the progress of their being; and we have held him forth, not to excite an ineffectual admiration, but to stir up our own and others' breasts to an exhilarating pursuit of high and ever-growing attainments in intellect and virtue.

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